FROM YALTA TO DIEN BIEN PHU
HISTORY OF THE INTERNATIONAL COMMITTEE OF THE RED CROSS 1945 TO 1955

Catherine Rey-Schyrr
FROM YALTA TO DIEN BIEN PHU
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History of the International Committee of the Red Cross
1945 to 1955
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Thank you also to Jean Milligan David, Sylvie Pellet, Catherine Debraz and Emmanuel Rey and to all those I have not mentioned here and who assisted me in my endeavour.
During the Second World War, the International Committee of the Red Cross (ICRC) achieved a remarkable expansion of its activities in response to the hardship, suffering and loss caused by a war without precedent and, in November 1944, was awarded the Nobel Peace Prize for a second time. Yet by the time the guns had fallen silent, the ICRC found itself in the seat of the accused.

The organization was reproached for not having succeeded in protecting members of resistance movements and partisan fighters, many of whom were shot by the German and Japanese occupiers. It was held responsible for the tragic fate of Soviet prisoners of war held by the Germans. It was blamed for not having worked hard enough to come to the aid of deportees, especially Jewish victims of the Holocaust. Most of all, it was faulted for not having denounced the genocide.

The attacks on the ICRC were led by the Soviet Union, with satellite States and communist parties worldwide proving a powerful means of spreading the message. At the hour of victory, not a single State was willing to take the risk of offending its Soviet ally by coming to the assistance of the ICRC. The United States included the ICRC in the criticisms it levelled at Switzerland for the role it played during the war, while Jewish communities reproached it for having remained silent. Only Winston Churchill rallied to the defence of the ICRC by paying it a much-remarked-upon visit while in Geneva. By then, however, the “old lion” had lost the elections of July 1945 and had been reduced to leader of the opposition.

Criticism of the ICRC was made easier by the fact that Allied victory put an end to the organization’s activities in behalf of Allied prisoners of war and that those carried out for the millions of German and Japanese soldiers who fell into captivity when their countries capitulated were not considered important by the newly liberated nations, which held these men responsible for the atrocities committed by the German and Japanese occupying armies. The criticism was spread by the Soviet Alliance of Red Cross and Red Crescent Societies and the Yugoslav Red Cross throughout the International Red Cross and Red Crescent Movement and proved grist to the mill of those who either coveted the established position held by the ICRC since the early days of the Movement or simply wished for the organization to disappear. Eventually, in the spring of 1945, after the governments in London, Ottawa and Washington stopped funding supplies for Allied prisoner-of-war camps in Germany and occupied Europe, the ICRC was pushed to the verge of insolvency. Even after having laid off
most of its delegates and staff members, the organization remained close to bankruptcy for several years.

The ICRC thus found itself fighting for survival at the very time it had to meet the challenges of a second post-war period.

One may ask, therefore, how the ICRC was able to turn around this seemingly desperate situation at the end of the Second World War. How did it adapt to the new geostrategic environment, dominated by the Cold War and nuclear threat? How did it face up to the new forms of conflict that developed as the old colonial empires were dismantled? How did it go about restoring dialogue with communist countries and how did it succeed in ensuring its own future through new operational approaches to its work in the Middle East, Asia, North Africa and Latin America? Lastly, throughout this transformation, what was the role played by Paul Ruegger, president of the ICRC from 1948 to 1955? These are just some of the questions Catherine Rey-Schyrr set out to answer in this book.

Although clearly a work in its own right, the book follows in the tradition of the volumes *History of the International Committee of the Red Cross: From Solferino to Tsushima,*¹ by the late Pierre Boissier, and *History of the International Committee of the Red Cross, from Sarajevo to Hiroshima,*² by André Durand, which cover the years 1859 to 1914 and 1914 to 1945, respectively. The series is shortly to be completed by a fourth volume, written by Françoise Perret, on the period 1956 to 1965.

Like the above authors, Catherine Rey-Schyrr served the ICRC for many years before taking up her pen to write the history of the organization. She had the tremendous advantage of being able to analyze the ICRC’s idiosyncrasies, activities and ways of operating from the position of one with intimate knowledge of the organization. The fact of being an ICRC employee, however, did not prevent her from doing her job as a historian, to critically analyze the available material and to distance herself from any choices made by the organization she felt to have been a mistake. She enjoyed unlimited access to the archives covering the period in question, and even though she spoke extensively with those of her colleagues who shared her interest in the history of the ICRC, her freedom of expression as a writer was never called into question. Incidentally, the ICRC’s archives for the period covered by this book are open to all researchers wishing to carry out their own investigations into the activities of the ICRC, be they success stories or failures.

Catherine Rey-Schyrr took over the writing of the third volume of the history of the International Committee of the Red Cross from the late Florianne Truninger, who sadly died without being able to complete the book. Before being admitted to hospital she entrusted to us the manuscript of the chapter on the ICRC’s activities

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during the First Indochina War, which was published separately in memory of our
colleague. In the spirit of honouring this memory, Catherine Rey-Schyrr chose not
to cover this particular conflict and instead to insert the chapter written by Florianne
Truninger into her book.

Now that From Yalta to Dien Bien Phu is going to press, the ICRC wishes to
extend its sincere gratitude to Catherine Rey-Schyrr for the years she devoted to this
volume, her thorough and exacting research and her skilful balance between her
attachment to the ICRC and the scientific rigour of her work.

François Bugnion

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3 Florianne Truninger and François Bugnion, “The International Committee of the Red Cross
and the Indochina War – From the Japanese defeat to the Geneva Agreements (1945–1954)
”, offprint from the International Review of the Red Cross (IRRC), Vol. 34, No. 303, December 1994,
pp. 564–594.
Preface

About the structure of this book

This book retraces the activities of the ICRC during the decade following the Second World War.

The Introduction begins by recalling the political context of the organization’s activities during that period, continues with a brief presentation of the International Red Cross,¹ of which the ICRC is one of the components, and concludes with a portrait of the ICRC at the end of the Second World War.

The body of the book is divided into five parts:

The first part, The ICRC and the Red Cross Movement, sets out the position of the ICRC within the International Red Cross during two distinct periods: from the end of hostilities until the 17th International Conference of the Red Cross held in Stockholm in 1948 (chapter 1) and from that Conference until the 18th International Conference of the Red Cross in Toronto in 1952 (chapter 2). The second interval was notably marked by the drafting and adoption of the new Statutes of the International Red Cross.

The second part, entitled Activities carried out by the ICRC to assist the victims of the Second World War and its aftermath, presents the activities carried out by the ICRC after the war to assist prisoners of war and civilian internees (chapter 3), displaced people and refugees (chapter 4) and the civilian population (chapter 5). Given the wide range of operational activities and the vast geographical area in which they were carried out, it was impossible to examine them all. It was therefore decided to offer a brief overview of the general situation and to focus on Europe, more specifically on subjects that have so far received little attention in ICRC publications and other works on the organization: German prisoners of war in Eastern European nations, especially Poland; steps taken in connection with the forced repatriation of displaced persons (soldiers and civilians); the origins of the travel documents issued by the ICRC; relief supplies delivered to the population of Berlin and West Germany; and representations made on behalf of ethnic German minorities in Czechoslovakia.

The third part, The development of international humanitarian law and ICRC policies, describes the ICRC’s contribution to the drafting and adoption of the four Geneva Conventions of 1949 (chapter 6) and its efforts to protect civilian populations against the dangers of indiscriminate warfare (chapter 7). Part three also examines the work carried out by the ICRC to define its criteria for action in situations of internal unrest and political detention, which are not covered by international humanitarian law (chapter 8).

The fourth part, entitled The ICRC and the new conflicts, examines the ICRC’s operational activities in the armed conflicts that arose in the aftermath of the Second

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¹ The present-day International Red Cross and Red Crescent Movement.
World War and in the wake of decolonization in Indonesia (fight for independence and insurgency in the South Molucca Islands, chapter 9); in Indochina (chapter 10); on the Indian subcontinent (First Kashmir War, the events in Hyderabad and the disturbances in Bengal, chapter 11); in Palestine (the Jewish-Arab Civil War and the 1948 Arab-Israeli War, chapter 12); and in Korea (chapter 13).

Lastly, the fifth part, Civil war, internal disturbances and political detainees, covers the ICRC’s activities in these types of situation. Activities are presented by region, as follows: Europe (the Greek Civil War and political detainees in Spain, chapter 14); Asia (the Chinese Civil War and the Karen insurgency in Burma, chapter 15), Latin America (the civil wars in Paraguay, Guatemala and Costa Rica and the attempts to assist political prisoners in a number of other Latin American countries, chapter 16), North Africa (Tunisia and Morocco, chapter 17) and the Middle East (the Buraimi dispute and political detainees in Egypt and Syria, chapter 18).

The decision whether to examine a given conflict in part four or five was not always straightforward. For instance, the disturbances in North Africa, which were part of the struggles for independence, could just as well have been discussed in part four, and the insurgency in the South Molucca Islands or the internal unrest in Bengal could have been covered in part five.

Regarding North Africa, it was decided to approach the topic from the perspective adopted by the ICRC at the time, which was to consider the events there internal unrest. For the South Molucca Islands and Bengal, a regional approach was considered more coherent. This also applies to the Buraimi incident which, in spite of being an international dispute, was included in part four.

Although they form part of a whole, the various chapters are monographs and may be read independently of each other. A certain amount of redundancy was thus unavoidable.

Several of the chapters were the result of extensive research in the ICRC’s general archives; others, however, were based on the ICRC’s annual reports and studies of the organization carried out both within and outside the ICRC, in particular the chapter on the Geneva Conventions of 1949, which drew on expert information for the legal aspects of this subject, and the chapter on activities for the victims of the Second World War, with the exception of topics also discussed in other parts of the book.

The General conclusion attempts to summarize the main themes running through the ICRC’s operations in the period 1945 to 1954 and to review its activities.

Sources

Most of the sources used are located in the following sections of the ICRC’s general archives: minutes of the meetings held by the decision-making bodies of the ICRC; general operations until 1950; general archives from 1951 to 1975; and the camps

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2 The chapter on the war in Indochina, on pp. 335 ff., was written by Florianne Truninger, who passed away shortly after she started writing Volume III of the history of the ICRC.
service. Given the scale of the collections (several hundred shelf metres) and the range of records they contain, the authors’ research does not claim to be complete. The archives, which are open to the public, contain enough material for many additional studies. They are a mine of information on armed conflict, other situations of armed violence and the fate of victims. The delegates’ reports in particular allowed the authors to bring life to the subject matter of this book.

In a number of instances information obtained from the archives was supplemented by accounts from former ICRC directors and delegates.

It was decided to consult only the archives of the ICRC. Otherwise, to be consistent, the authors would have had to visit the archives of every country in which the ICRC carried out activities during the period covered by the book, which would have been near-impossible. However, some of the records that might be found in archives abroad are also part of the ICRC’s collections. They include correspondence between the ICRC and governments, National Red Cross and Red Crescent Societies, the United Nations and other humanitarian organizations.

ICRC publications include the organization’s activity reports, which is to say the substantial report it published on its activities during the Second World War (1 September 1939–30 June 1947) and its subsequent annual reports, the monthly issues of the International Review of the Red Cross, various collections of documents on specific activities, dissemination material on the activities and principles of action of the ICRC and, regarding the development of international humanitarian law, ICRC reports on the conferences of experts of National Red Cross Societies or governments.

Public documents pertaining to the International Red Cross, which were likewise used, include the minutes of the International Conferences of the Red Cross and related preparatory documentation. The handbooks of the International Red Cross, in turn, contain the statutes and regulations of the different components and bodies of the Red Cross Movement and the main resolutions adopted by the International Conference of the Red Cross, the texts of the Geneva Conventions and the most important instruments of international humanitarian law. Reference should also be made to the proceedings of the Diplomatic Conference of 1949 and the ICRC Commentary on the Geneva Conventions of 1949.

External sources, such as reference works, research papers and witness accounts, provided perspectives different from those of ICRC staff members and allowed the authors to situate the organization’s activities in their political and historical context.

Throughout this book the footnotes give the references for the sources used.

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3 A PV Comité: Procès-verbaux; B G Services généraux: Généralités; B AG Services généraux: Archives générales; C SC Agence/Protection: Service des camps.

4 The ICRC’s archives for the period 1951 to 1965 were opened to the public in April 2004 and an inventory established. As a result, some of the archive references given in this book may have changed.
## Abbreviations

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<tr>
<td>AFSC</td>
<td>American Friends Service Committee or Quakers</td>
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<tr>
<td>AGIUS</td>
<td>Assistenza Giuridica agli Stranieri (Autonomous section of the Italian Red Cross responsible for providing legal assistance for foreigners)</td>
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<td>CFIH</td>
<td>Swiss Federal Internment and Hospitalization Commission</td>
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<td>CIA</td>
<td>Central Intelligence Agency</td>
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<td>CICRC</td>
<td>International Commission Against Concentration Camp Practices</td>
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<td>Cominform</td>
<td>Communist Information Bureau</td>
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<tr>
<td>DRP</td>
<td>United Nations Disaster Relief Project</td>
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<td>DRV</td>
<td>Democratic Republic of Vietnam (North Vietnam)</td>
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<tr>
<td>EAM-ELAS</td>
<td>National Liberation Front – Greek People’s Liberation Army</td>
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<tr>
<td>ECOSOC</td>
<td>United Nations Economic and Social Council</td>
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<tr>
<td>EDES</td>
<td>Greek Democratic National Army</td>
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<tr>
<td>EKKA</td>
<td>National and Social Liberation Movement (Greece)</td>
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<tr>
<td>FDGB</td>
<td>Free German Trade Union</td>
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<tr>
<td>FRG</td>
<td>Federal Republic of Germany</td>
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<tr>
<td>GDR</td>
<td>German Democratic Republic</td>
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<tr>
<td>Gestapo</td>
<td>Secret police of Nazi Germany</td>
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<tr>
<td>GUCTU</td>
<td>General Union of Confederated Trade Unions (Morocco)</td>
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<tr>
<td>ICEM</td>
<td>Intergovernmental Committee for European Migration</td>
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<td>ICRC</td>
<td>International Committee of the Red Cross</td>
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<td>IGCR</td>
<td>Intergovernmental Committee on Refugees</td>
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<tr>
<td>IRO</td>
<td>International Refugee Organization (predecessor to UNHCR)</td>
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<td>IRRC</td>
<td><em>International Review of the Red Cross</em></td>
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<td>ITS</td>
<td>International Tracing Service</td>
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<td>League</td>
<td>League of Red Cross Societies</td>
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<td>MPIs</td>
<td>Military prisoners and internees</td>
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<tr>
<td>NATO</td>
<td>North Atlantic Treaty Organization</td>
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<tr>
<td>OEEC</td>
<td>Organisation for European Economic Cooperation</td>
</tr>
<tr>
<td>PKI</td>
<td>Indonesian Communist Party</td>
</tr>
<tr>
<td>RAF</td>
<td>British Royal Air Force</td>
</tr>
<tr>
<td>Abbreviation</td>
<td>Description</td>
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</tr>
<tr>
<td>RICR</td>
<td>Revue internationale de la Croix-Rouge (French edition of IRRC)</td>
</tr>
<tr>
<td>SD</td>
<td>Security service of the SS</td>
</tr>
<tr>
<td>SEAC</td>
<td>Allied South-East Asia Command</td>
</tr>
<tr>
<td>SHAEF</td>
<td>Supreme Headquarters of the Allied Expeditionary Force</td>
</tr>
<tr>
<td>SS</td>
<td>Protection squadron of the Nazi party</td>
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<tr>
<td>SSNP</td>
<td>Syrian Social Nationalist Party</td>
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<tr>
<td>UGTT</td>
<td>Tunisian General Labour Union</td>
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<tr>
<td>UN</td>
<td>United Nations Organization</td>
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<tr>
<td>UNC</td>
<td>United Nations Command in Korea</td>
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<tr>
<td>UNCACk</td>
<td>United Nations Civil Assistance Command for Korea</td>
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<tr>
<td>UNCIP</td>
<td>United Nations Commission for India and Pakistan</td>
</tr>
<tr>
<td>UNESCO</td>
<td>United Nations Educational, Scientific and Cultural Organization</td>
</tr>
<tr>
<td>UNHCR</td>
<td>Office of the United Nations High Commissioner for Refugees</td>
</tr>
<tr>
<td>UNICEF</td>
<td>United Nations International Children’s Emergency Fund</td>
</tr>
<tr>
<td>UNRPR</td>
<td>United Nations Relief for Palestine Refugees</td>
</tr>
<tr>
<td>UNRRA</td>
<td>United Nations Relief and Rehabilitation Administration</td>
</tr>
<tr>
<td>UNRWA</td>
<td>United Nations Relief and Works Agency for Palestine refugees in the Near East</td>
</tr>
<tr>
<td>UNSCOP</td>
<td>United Nations Special Committee on Palestine</td>
</tr>
<tr>
<td>USSR</td>
<td>Union of Soviet Socialist Republics</td>
</tr>
<tr>
<td>YMCA</td>
<td>Young Men’s Christian Association</td>
</tr>
</tbody>
</table>
Note on romanization of Chinese words

Two different systems of romanization have been used for Chinese words since the ICRC was established – Wade-Giles and Pinyin. The author of this volume used Wade-Giles, the older system, in the original French text. The English translation follows the Pinyin system, which is the one in use today, except where Wade-Giles has entered into the language.

Wades-Giles    Pinyin
Canton         Guangzhou
Chang Hsueh-liang Zhang Xueliang
Chiang Kai-shek (standard English spelling) Zhou Enlai
Chou En-lai    Zhou Enlai
Chungking      Chongqing
Kuomintang    Guomindang
Li Tehchuan    President of the Chinese Red Cross in the 1950s
Li Tsung-jen  Li Zongren
Mao Tse-tung   Mao Zedong
Nanking        Nanjing
Peking        Beijing
Peng Te-huai   Peng Dehuai
Shanghai (standard English spelling) Nanking
Shansi        Shanxi
Shensi        Shaanxi
Szechuan      Sichuan
Tientsin      Tianjin
Yangtze River (standard English spelling)
Yenan         Yan’an
Introduction

The mission of the ICRC is to protect and assist the victims of international and non-international conflicts and of situations of internal violence. It is an exclusively humanitarian, impartial, neutral and independent organization. It professes to be non-political.

In the words of Max Huber, president of the ICRC from 1928 until the end of the Second World War, “both the impartiality, (...) and the peculiar nature of the Red Cross as a relief institution, make it essential that the Committee should keep its activities untouched by politics of any kind, whether of States or parties, classes, races, creeds or ideologies, and unaffected by moral judgments as to the persons who are to be helped, or those with whom relations must be maintained”.

Nevertheless, for better or worse, the ICRC’s activities are invariably shaped by the political, and in particular international, contexts in which they are carried out.

The ICRC being the founding organization of the International Red Cross and Red Crescent Movement, its history at least in part is also the history of the Movement. As a member of the Movement, the ICRC does not exist in isolation from its other components and is subject to some of the decisions taken by its decision-making bodies.

At the close of the Second World War, the ICRC’s operations were influenced by four factors: a vacant presidency, a catastrophic financial situation, widespread criticism of the organization and strained relations with the Soviet Union.

The political context of the period from 1945 to 1955

The Second World War was a global catastrophe without precedent. At the ICRC, promoter of the Geneva Conventions, the heavy toll exacted by total warfare confirmed the urgent need to extend the protection afforded under the Geneva Conventions to all victims of war and to all types of conflict. In February 1945, even

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2 On the casualties of the Second World War, see p. 113.
before hostilities had ceased, the ICRC again embarked on a revision\(^3\) of the existing Conventions. Four years later the four Geneva Conventions of 1949 were adopted.

The United States and the Soviet Union emerged from the Second World War as the two superpowers. The colonial powers, in contrast, not only lost their prestige and aura of invincibility, they were also in serious financial trouble, which hastened the end of European world dominance.

The United States, which emerged from the war a more prosperous nation and embraced political and economic liberalism, wanted to support democratic nations and create a vast free-trade area in Europe and the world. The Soviet Union, although devastated by the conflict, succeeded in extending its influence well beyond its borders by annexing territory in Europe and Asia. The Red Army’s victory over Hitler and the role played by communists in anti-Nazi resistance movements had strengthened its prestige. Fearing the renewed rise of a strong German nation, the Soviet Union sought to weaken Germany and to create a physical buffer zone to protect itself. As they were driven by diametrically opposed ideologies, it did not take long for the two former allies to enter into confrontation.

The years following the Second World War were marked by the onset of the Cold War and the division of the world into two opposing blocs: on one side, the United States and its allies, representing the Western model; on the other, the Soviet Union, Eastern European countries and, in the Far East, the People’s Republic of China, North Korea and North Vietnam.

When the political and military Iron Curtain – condemned by Winston Churchill already in March 1946 in a speech delivered at Fulton, United States – came down, the fissure took on an ideological and cultural dimension, reflected in the intense war of propaganda fought by the two blocs: “Both the East and the West use the same words: peace, freedom, justice, democracy. Yet they refer to opposite realities.”\(^4\) The battle of ideologies also raged within the two blocs. There were voices in the West, including communist parties and pacifist movements, who spoke out in favour of the Soviet Union, “peace” being a recurring theme. Overall, the confrontation was characterized by suspicion and a tendency to engage in black-and-white thinking, producing McCarthyism in the United States, Stalinism in the Soviet Union and, last but not least, the shadow war of espionage.

The ICRC, which throughout the war had been barred by the Soviet Union from sending delegates to the country and from carrying out its traditional activities, was not able to operate in isolation from the wider political context. The communist camp remained highly suspicious, even hostile, in spite of repeated efforts to restore relations with the Soviet Union.

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3 The revision of the Convention was begun in the 1930s, but abandoned because of the outbreak of war; see p. 210.

Before the Iron Curtain was lowered, however, there was enough time to call into being the United Nations, founded to prevent the scourge of war from returning. The Charter of the United Nations, signed on 26 June 1945 at the conclusion of the United Nations Conference on International Organization, convened in San Francisco on 24 April of that year, mentions in Article 1.2 “respect for the principle of equal rights and self-determination of peoples” and, in Article 1.3, “respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion”. All the nations who fought against the Axis powers were invited to take part in the San Francisco Conference, neutral States having been disbarred from attending by the Soviet Union, the United Kingdom and the United States during their talks at Dumbarton (September to October 1944) and Yalta (February 1945). It was not until the Charter was actually signed that neutral States were admitted for membership of the United Nations.

This fact was not without significance for the ICRC, whose members were nationals of Switzerland, a neutral country being criticized by the Allies for its trade relations with Nazi Germany during the war.

However, it did not take long for the United Nations to become paralyzed by the Soviet Union’s use of its veto right as a member of the Security Council and by the irreconcilable positions defended by both American and Soviet representatives in the Atomic Energy Commission, established in January 1946.

The end of the Second World War further coincided with the beginning of decolonization, first in Asia, where during the war the Japanese had supported nationalists’ desire for independence, going so far as to hand over power to these movements when they withdrew, then in the Middle East and finally in North Africa. It would be another decade before the countries of sub-Saharan Africa also achieved independence.

Aside from the start of the Cold War and the onset of decolonization, the third hallmark of the period 1945 to 1954 was the arms race, especially the race to acquire nuclear weapons, which brought with it fear of a third world war. The ICRC shared this concern, afraid that a further conflict would erupt before it had been able to complete its revision of the Geneva Conventions and restore contact with the Soviet Union.

The death of Stalin on 5 March 1953 and subsequent appointment of Khrushchev as head of the Communist Party of the Soviet Union in September of that year ushered in a period of détente that was to continue until 1955 and ended in 1956 with the Hungarian uprisings and the Suez crisis.

Europe and the start of the Cold War

Germany lost its sovereignty following the unconditional capitulation of the Third Reich, and the country’s future proved to be the main point of contention between the two blocs.

At conferences convened to prepare the post-war period, the Allies had agreed to punish Germany and to make the country pay reparations. The first of these objectives was achieved by the Nuremberg trials, held from November 1945 until October 1946. More than 20 leading officials of the Third Reich accused of crimes against peace,
war crimes and crimes against humanity were tried and sentenced, as were eight Nazi organizations.\footnote{See p. 136 below.} The *Wehrmacht* was disbanded, the National Socialist Party banned and the process of denazification begun. This also affected the German Red Cross, which was dissolved. However, the Soviet Union and the Western occupying powers disagreed on how to accomplish the second objective: first the Americans (as early as 1946), then the British and, some time later, the French questioned the policy of reparations, in particular the requisitioning and dismantling of German industry. The main reason for this change in tack was the fact that in 1945 the Soviet Union began hermetically sealing off the border of its zone of occupation from the borders of the other three zones, held by the Western powers. Doing so effectively cut off Western Germany from its main agricultural regions, leaving it unable to meet the basic food needs of its population as the number of refugees arriving in the country continued to grow.

Below follows an outline of the main events leading to the formation of the two blocs:

- The Soviet Union’s post-war takeover of Poland and the establishment of people’s democracies based on the principles of Marxism-Leninism in the Eastern European and Balkan countries under Soviet control, culminating in February 1946 with the communist coup d’état in Prague.
- The Greek Civil War, which began at the end of 1946, opposing the royalist government in Athens and the “democratic army” of communist-aligned General Markos Vafiades.
- President Truman’s declaration before Congress on 12 March 1947, in which he set out the policy of containment designed to stop the spread of communism. It proposed substantial aid payments to stimulate the economies and thereby shore up the political stability of countries wishing to remain free and resisting communist pressure. One month later, on 22 April 1947, Congress approved substantial aid packages for Greece (250 million US dollars) and Turkey (150 million US dollars); both countries were under pressure from the Soviet Union over access to the Turkish Straits.
- The Marshall Plan, launched by the United States on 5 June 1947 to support the economic reconstruction of Europe. The Plan was rejected by the Soviet Union on 2 July and shortly thereafter also by the countries in the Soviet sphere of influence. On 12 July 1947 aid to Western Germany was approved. On 16 April 1948 the 16 participating countries, including Switzerland, which contributed to European reconstruction as part of the Plan, founded the Organisation for European Economic Cooperation (OEEC).
- The establishment, on 5 October 1947, of the organization Cominform as a forum for liaison among the communist parties of nine countries: the Soviet Union, Poland, Yugoslavia (until June 1948, when Yugoslavia was excluded from the
Cominform and broke off relations with Moscow), Bulgaria, Romania, Hungary, Czechoslovakia, Italy and France.

- The blockade of Berlin from 23 June 1948 until 12 May 1949.
- The signing of the North Atlantic Treaty in Washington on 4 April 1949, by which the 12 signatory States established NATO to ensure that Western Europe would enjoy permanent military support from the United States.
- The proclamation of the Federal Republic of Germany (West Germany or FRG) on 5 May 1949 and of the German Democratic Republic (East Germany or GDR) on 7 October 1949.
- The official invitation to the Federal Republic of Germany to join NATO, issued in October 1954.
- In response, the signing of the Warsaw Pact on 14 May 1955, forming an alliance of seven Eastern European people’s democracies and the Soviet Union.

All of the above were to have repercussions for the ICRC and the International Red Cross.

In post-war Europe the ICRC concentrated its efforts on Germany, specifically German prisoners of war and the German civilian population. It also carried out activities in the Greek Civil War.

Asia and the beginning of decolonization

From Europe the Cold War rapidly spread to Asia, where the collapse of the colonial empires was gathering pace.

The following conflicts in Asia can be situated in the context of the Cold War:

- The Chinese Civil War, which resumed in 1946 and ended when Mao Zedong proclaimed the People’s Republic of China on 1 October 1949. Chiang Kai-shek was confined to the island of Taiwan, under American protection.
- The First Indochina War, which France entered in late 1946 following the proclamation by Ho Chi Minh on 2 September 1945 of an independent Democratic Republic of Vietnam. The war ended in 1954, after the French defeat at Dien Bien Phu on 7 May 1954 and following the Geneva Conference on Indochina, held from 26 April to 21 July 1954. At the Conference Vietnam was divided into two separate countries: the Democratic Republic of Vietnam to the north of the 17th parallel, and the Republic of Vietnam to the south. Laos and Cambodia, which, together with Vietnam, were associated States within the French Union established in 1946, were granted full independence.
- The Korean War, triggered when South Korea was invaded by North Korean troops on 25 June 1950. During the hostilities US troops assisted by soldiers from other allied countries fought alongside South Korea, under the aegis of the United
Nations. Armed contingents of “volunteers” from the People’s Republic of China supported North Korea. The armistice concluded at Panmunjom on 27 July 1953 enshrined the division of the peninsula along the 38th parallel and resulted in the creation of the Democratic People’s Republic of Korea, led by Kim Il Sung, and the Republic of Korea, headed by president Syngman Rhee.

Beyond the context of the Cold War in the strict sense of the term, the decolonization of Asia was also associated with conflict or violence in the following countries:

- The Dutch East Indies, where Sukarno proclaimed the Republic of Indonesia on 17 August 1945. The struggle for independence ended with the recognition of Indonesia by the Netherlands on 27 December 1949. An insurrection that broke out on the South Molucca Islands in May 1950 was put down by the end of that year.

- British India, where violence between Muslim and Hindu communities erupted in Punjab and Bengal during the transition to independence. After independence was declared on 15 August 1947, two States were created, India and Pakistan. Unrest also erupted in Kashmir; India and Pakistan ended up fighting over the territory in a conflict that lasted from October 1947 until early 1949.

- Burma, which was granted independence from the United Kingdom on 4 January 1948 and immediately thereafter was caught up in armed violence, involving primarily the Karen ethnic minority but also communist groups.

The ICRC deployed its activities in all these conflicts, with varying success.

Following the occupation of Japan by the American forces, General MacArthur, supreme commander for the Allied powers, strove to transform the country into a democratic State along the lines of the American economic model.

After Japan and the Western Allied nations had signed the peace treaty of San Francisco on 8 September 1951, the ICRC was invited to act as intermediary in the distribution of compensation to former prisoners of war held by the Japanese.

The Middle East and North Africa

In the Middle East the Second World War was followed by the decolonization of territories remaining under French and British mandate and by the rise of Pan-Arabism, which culminated in the founding of the Arab League in March 1945.

In 1945 and 1946, Syria and Lebanon were granted independence from France, and Transjordan from Britain.

In Palestine, which was under British mandate, civil war erupted between Jews and Arabs at the end of 1947 after the United Nations had voted in favour of the Partition Plan for Palestine. After the State of Israel proclaimed its independence on 14 May 1948, the civil war gave way to the first armed conflict between the new State of Israel and Arab nations, which ended with the signing of a series of armistice
agreements in the early months of 1949. The ICRC carried out major operations in the course of the conflict and its aftermath.

In Egypt, King Farouk abdicated on July 1952 following a coup d’état by a group of officers. When power was taken by Colonel Nasser in February 1954, Egypt left the Western camp and lent its support to the liberation movements of North Africa.

Tunisia and Morocco, both French protectorates, were granted independence in March 1956 after several years of armed strife. However, France was opposed to the independence of Algeria, where war eventually broke out at the end of 1954.

Prior to the conflict in Algeria the ICRC had already attempted to intercede in Tunisia and Morocco; its efforts subsequently led it to establish more precise criteria for work carried out in situations of internal violence.

**South America**

During the decade from 1945 to 1955 South America was the scene of numerous coups d’état and civil wars in the course of which several countries began detaining political prisoners.

The fate of political detainees in South America prompted the ICRC to include this particular category of victim in its deliberations on internal unrest.

**Sub-Saharan Africa**

In the period immediately following the Second World War, Liberia, Ethiopia and South Africa were the only independent nations of sub-Saharan Africa. The adoption of the first major segregation laws by the British Dominion of South Africa in the first half of the twentieth century ushered in the era of apartheid.

Under the impetus of their elites, the nations of sub-Saharan African started to push for emancipation. However, most French, Belgian and British colonies were not granted independence until the 1960s. Unlike in Asia, the Middle East and North Africa, no true wars of independence erupted in sub-Saharan Africa, where conflicts were limited to protest campaigns and riots. The most violent events were the Malagasy uprising of 1947, which was harshly suppressed by the French, and the Mau Mau rebellion that shook Kenya in 1952.

Even though it resulted in tens of thousands of victims, the uprising in Madagascar did not attract the attention of the ICRC, which in 1947 was still almost exclusively preoccupied with the aftermath of the Second World War. At the time, sub-Saharan Africa was a part of the world little known to the organization, and although the ICRC became concerned about the Mau Mau rebellion as early as the closing months of 1952, it did not dare to make representations to the British authorities until 1955.6

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The arms race

On 22 September 1949 the governments of Britain, Canada and the United States announced having proof that an atom bomb had exploded over the Soviet Union several weeks previously. This meant that four years after the bombings of Hiroshima and Nagasaki (on 6 and 9 August 1945, respectively), the United States had lost their monopoly on nuclear weapons.

Shortly thereafter the two superpowers developed an even more powerful new weapon known as a thermonuclear or hydrogen bomb (H-bomb), tested for the first time by the Americans in November 1952 and, nine months later, in August 1953, by the Soviet Union.

The result was a ‘balance of terror’, with both superpowers having nuclear weapons at their disposal but not using them.

Since part of the ICRC’s mandate is to monitor the application of the Geneva Conventions, the organization, as early as September 1945, questioned whether nuclear weapons were compatible with the principles of international humanitarian law and asked States to reach an agreement prohibiting their use.

The International Red Cross

In 1945 the International Red Cross – as the International Red Cross and Red Crescent Movement was called at the time – was governed by the Statutes of the International Red Cross adopted on 25 October 1928 by the 13th International Conference of the Red Cross held in The Hague.\(^7\)

Components

The International Red Cross consisted of the National Societies, the League of Red Cross Societies\(^8\) and the ICRC.

At the end of the Second World War there were 64 National Red Cross Societies, principally in Europe and North America (33), as well as South America (20). There

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8 On 28 November 1991 the League of Red Cross Societies became the International Federation of Red Cross and Red Crescent Societies.

9 For ease of reading, the term “Red Cross Societies” is used to refer to all National Societies, including the National Red Crescent Societies and the Red Lion and Sun Society of Iran, which in 1980 became the Red Crescent Society of the Islamic Republic of Iran.
were eight National Societies in Asia and Australasia, two in the Middle East and only one in Africa.12

Between 1945 and 1955 the ICRC recognized 14 National Societies: six in Asia, four in Europe, three in the Middle East and one in Africa.16

Consequently, by 1955 there were 74 National Societies, the Red Cross Societies of Danzig, Estonia, Latvia and Lithuania having been disbanded when the former free city of Danzig passed back to Poland and the three Baltic States were incorporated into the Soviet Union.

To be recognized, National Societies had to satisfy a number of requirements defined by the ICRC. Specifically, they had to belong to a country in which the Geneva Convention had entered into force, to have been recognized by the government of their country as auxiliary to the health-care services, to adopt the name and emblem of the Red Cross or Red Crescent and to admit any of its nationals to the National Society.18

The National Societies, in turn, undertook to respect the principles of the Geneva Convention in carrying out their work. Independent of, yet duly authorized by, their respective governments, they enjoyed complete freedom of action as regards their organization and activities.19

Founded in 1919, the League of Red Cross Societies was “an association of National Red Cross Societies united in the goal of practical co-operation in time of peace, mutual assistance and common activities such as are defined in its statutes in force on the day of adoption of the present statutes”.20

As to the ICRC, Article VII of the 1928 Statutes of the International Red Cross defined the organization as “guardian of the principles of the Red Cross”. Aside from the activities carried out under the mandate conferred on it by international conventions and the International Conference of the Red Cross, the ICRC informed the National Societies of any new Society founded in conformity with the principles of the Geneva Convention. This article also specified that the ICRC “remains a neutral

10 Australia, Burma, China, India, Iran, Japan, New Zealand and Siam.
11 Egypt and Iraq.
12 South Africa.
13 In chronological order: the Philippines, Pakistan, Indonesia, Ceylon, Afghanistan and the Republic of Korea.
14 Monaco, San Marino, the Federal Republic of Germany and the German Democratic Republic.
15 Syria, Lebanon and Jordan.
16 Ethiopia.
17 “The Geneva Convention” refers to the Geneva Convention of 22 August 1864 for the Amelioration of the Condition of the Wounded in Armies in the Field, the first Geneva Convention to have been adopted by States, or to the revised versions of 1906 and 1929.
19 Articles II and IV of the Constitution of the League of Red Cross Societies, Manuel de la Croix-Rouge internationale, op. cit., pp. 149 and 150.
20 Article VIII of the Statutes of the International Red Cross of 1928.
intermediary whose work is recognized as particularly necessary in time of war, civil war or internal strife. In time of peace, it continues to work to assuage the ills seen as consequences of war. (...) Any complaints regarding alleged infringements of the international Conventions and in general any questions requiring examination by a specifically neutral body will remain the exclusive preserve of the International Committee of the Red Cross.”

Lastly, Article IX stipulated that the ICRC and the League should “cooperate in matters touching upon the activities of both, and especially in regard to the endeavours of relief organizations in the event of national or international calamities”.\(^{21}\)

**Governing bodies**

The highest decision-making authority of the International Red Cross was the International Conference of the Red Cross. It was made up of delegations from all the National Societies and the States party to the Geneva Conventions and of delegates from the ICRC and the League. It normally met, and continues to meet, every four years, in particular to ensure the unity of the efforts of the National Societies, the ICRC and the League. It had the power to take decisions but not to amend the Statutes of the ICRC or of the League which, in turn, were not allowed to take any decision inconsistent with the Statutes of the International Red Cross and the resolutions of the International Conference.\(^{22}\)

Two other assemblies, restricted exclusively to the Red Cross, that is to say without the participation of States, were established in addition to the International Conference.

The first of these, the Council of Delegates, was made up of delegates from the National Societies recognized by the ICRC and delegates from the ICRC and the League. Its main functions related to the International Conference, in addition to dealing with questions transmitted to it by the Standing Commission (see below) and the International Conference. The Council of Delegates normally met every four years and in any event just before every International Conference.\(^{23}\)

The second assembly, the Board of Governors, was the general assembly of the National Societies that were members of the League. As a rule it met once every two years and in any event at every International Conference.\(^{24}\)

Lastly, the Statutes of 1928 established a fourth body, the Standing Commission of the International Committee of the Red Cross. It was comprised of five members

\(^{21}\) Article IX of the Statutes of 1928.

\(^{22}\) Articles I, II and III of the Statutes of 1928.

\(^{23}\) Article IV of the Statutes of 1928. Furthermore, pursuant to Article VI, when the Board of Governors met during the period between two International Conferences for the biennial session provided for in the Constitution of the League of Red Cross Societies, the Standing Commission would also invite the Council of Delegates to attend if a request to this effect had been made by ten National Societies or by the ICRC and five National Societies.

appointed by the International Conference who remained in office until the following Conference, as well as two representatives of the ICRC and two of the League. The Standing Commission had its seat in Geneva and elected a president and a vice-president for the period between two International Conferences. Normally, meetings were called by the president or at the request of three Commission members. In addition to tasks related to the preparation of the International Conference (drawing up the agenda and, as needed, setting the date and place of the Conference) and "subject to any final decision the Conference may take, the Standing Commission shall settle any difference of opinion which may arise as to the interpretation and application of the present Statutes [of the International Red Cross] as well as any questions which may be submitted to it" by the International Committee or the League "in connection with any differences that might arise between them".25

The ICRC at the end of the Second World War

The Statutes of the ICRC

According to its Statutes26 the ICRC is an independent organization governed by the Swiss Civil Code and having a status of its own within the International Red Cross. Its members are co-opted from among Swiss citizens, with membership limited to a maximum of 25. The headquarters of the ICRC are at Geneva. The role of the ICRC is, in particular:

(a) to work for the maintenance and development of relations between National Red Cross Societies;

(b) to maintain the fundamental and unchanging principles of the Red Cross, namely: impartiality; political, religious and economic independence; the universality of the Red Cross and the equality of all National Societies;

(c) to accord recognition to any National Society newly established or reconstituted in conformity with the principles of the Geneva Convention and to bring such regular constitution to the notice of all existing National Societies;

(d) to be a neutral intermediary, whose intervention is recognized to be necessary, especially in case of war, civil war or civil strife;

(e) to receive any complaint regarding alleged breaches of the International Conventions, and, in general, to consider all questions requiring examination by a specifically neutral body;

25 Article X of the Statutes of 1928.
(f) to co-ordinate efforts to relieve victims of wars, of the evils resulting from war and of civil calamities;

(g) to promote, in co-operation with the National Red Cross Societies and Army Medical Services, the training of the personnel and the preparation of the medical supplies necessary for the work of the Red Cross in time of war;

(h) to perform the duties assigned to it by the International Conventions;

(i) to deal, in general, with everything pertaining to the relations between the Red Cross Societies, in time of peace as in time of war, in the field of relief to the wounded and sick in wars and of work in behalf of prisoners of war.

Legal basis and principles of action

Aside from its own Statutes, the Statutes of the International Red Cross and the resolutions of the International Conference of the Red Cross, the legal basis for the ICRC’s work is the mandates conferred upon it by various international conventions. Until 1949 these were primarily the two Geneva Conventions of 27 July 1929, one concerning the wounded and sick in armies in the field, the other the treatment of prisoners of war, and the Hague Convention (X) of 18 October 1907 concerning the adaptation to maritime warfare of the principles of the Geneva Convention.

In its Article 79, the Geneva Convention of 1929 relative to the Treatment of Prisoners of War entrusts the ICRC with the task of proposing to the belligerent powers the organization of a central agency of information regarding prisoners of war in a neutral country. It further specifies that this provision should not be interpreted as restricting the humanitarian work of the ICRC. Article 88 takes up the same idea regarding the ICRC’s mandate with respect to monitoring the application of the Convention. It stipulates that “the foregoing provisions do not constitute any obstacle to the humanitarian work which the International Red Cross Committee may perform for the protection of prisoners of war with the consent of the belligerents concerned”. Articles 79 and 88 establish what the ICRC calls its right of humanitarian initiative and, in doing so, enshrine the organization’s traditional activities, which is to say activities to protect and assist prisoners of war, such as visits to camps, the sending of relief and the work of the Central Prisoners of War Agency.

The adoption of the four Geneva Conventions of 12 August 1949 and Article 3 common to the four Geneva Conventions confirmed the ICRC’s right of access to prisoners of war and civilian internees, while its right of humanitarian initiative was expanded to include internal armed conflict. This major turning point would prove decisive for countless victims of war.

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27 See also p. 209 below.
Ethically, the ICRC based its work on the principles at the heart of the Red Cross, that is to say foremost the principles of “the will to give effective aid”\textsuperscript{29} and of “absolute impartiality”. In the words of Max Huber, this means that “relief is offered to everyone, even to the enemy. Over all differences, even those antagonisms of which war between peoples is the most violent expression, stands the respect for the human being in every man, at the moment when he is defenceless and abandons the fight.”\textsuperscript{30}

However, the principle of impartiality “can only find application when based upon strict political neutrality, in complete independence of any national or supra-national, political, social or denominational organization”.\textsuperscript{31}

On the basis of its practical experience, the ICRC went on to establish policies that were to serve as guarantor of the coherence, and thus credibility, of its activities.

Organizational and decision-making structures

The ICRC’s supreme decision-making body was the plenary session of the International Committee of the Red Cross, also referred to as ‘the Committee’. It elected its new members, the president, the vice-presidents, the members of the Bureau and the members of Central Management. It took general decisions relating to the activities and administration of the ICRC and approved the budget and accounts submitted to it by the Bureau. The Committee generally met once a month.\textsuperscript{32}

In the period under consideration the Bureau, composed of the President and at least three members of the Committee, was the executive body of the ICRC. It met once a week and was authorized to appoint commissions composed of members of the Committee, Central Management or other qualified staff of the organization. These commissions, the most important of which were the commission des délégations (Delegations Commission) and the commission juridique (Legal Commission) were responsible for initiating and monitoring the work carried out by the different divisions, without, however, directing them.\textsuperscript{33}

\textsuperscript{29} What is now called the principle of humanity.
\textsuperscript{31} Ibid, p. 11. The Fundamental Principles of the Red Cross were officially proclaimed by the 20th International Conference of the Red Cross gathered in Vienna in 1965. The Fundamental Principles are: humanity, impartiality, neutrality, independence, voluntary service, unity and universality. See also François Bugnion, The International Committee of the Red Cross and the Protection of War Victims, ICRC/Macmillan, Geneva/Oxford, 2003, pp. 426 ff.
\textsuperscript{32} Règlement intérieur on plenary sessions and the members’ rights, adopted by the ICRC in plenary session on 22 February 1946 – ICRC Archives, B CR 92-4. Between 1946 and 1955, the Committee met in plenary session five to 13 times a year. From 1949 to 1954, President Paul Ruegger instituted “working sessions” of the Committee in which ICRC members took part if they were available; these meetings were held twice a month, between plenary sessions.
\textsuperscript{33} Règlement intérieur of 22 February 1946 concerning the Bureau – ICRC Archives, B C 92-4.
In February 1949 the Bureau became the Presidential Council and, in April 1950, the Delegations Commission the Commission for External Activities.

The Central Management, set up in February 1946 to satisfy the condition imposed by Max Huber when he stepped in as President ad interim to replace Carl Burckhardt, who was on leave of absence (see below), was put in charge of running the activities of the ICRC. It received instructions from the Bureau and was accountable to it. The Central Management submitted to the Bureau all questions requiring confirmation or amendment of instructions received or involving an extension of work in progress or the opening of a new field of action. It also drew up the budget and accounts, for approval by the Bureau.

In 1946, the Central Management was made up of four members:

- Roger Gallopin, in charge of the Division for prisoners, internees and civilians of the Central Prisoners of War Agency and of the Delegations Commission;
- Jean Pictet, who ran the Secretariat of the Committee and the Bureau, the Legal Division, the Information Division, including the International Review of the Red Cross, and Records and Library;
- Georges Dunand, who was in charge of the Relief and Medical Divisions;
- Henri Cuchet, who headed the Finance Division and the Administration and Staff Division.

Lastly, a secretary-general was responsible for relations with the outside, in particular the National Red Cross Societies and international organizations. He was accountable to the Bureau, to which he reported on his activities. In 1946 this position was held by Jean Duchosal.

In March 1950, following the departure of first Henri Cuchet and then Georges Dunand, the ICRC reorganized its services, which were now regrouped into the three divisions overseen by two directors: Roger Gallopin, the executive director, and Jean Pictet, director of general affairs.

The Executive Division, managed by David de Traz, the Deputy Executive Director, under the responsibility of Roger Gallopin, dealt with all questions related to operations.

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34 Minutes of the closed meeting of the Bureau held on 21 February 1945 – ICRC Archives, A PV. See also André Durand, op. cit., pp. 517–518 and 571.
36 Instructions of 22 February 1946 concerning the secretary-general – ICRC Archives, B CR 92-4. Following the resignation of Jean Duchosal in early 1955, the ICRC decided not to reappoint a Committee member to the position of secretary-general, whose duties were divided up among the members of the Central Management. See RICR, No. 435, March 1955, p. 167.
The Division for General Affairs, under the direct responsibility of Jean Pictet, was in charge of all permanent activities outside of assistance to victims of conflict. As of 1952 Claude Pilloud, who was appointed assistant-director, participated in the running of this division.\(^{37}\)

The Administrative Division was managed by Assistant-Director Edouard de Bondeli, under the responsibility of Roger Gallopín. It included the services Administration and Staff, as well as Accounts.\(^{38}\)

The number of staff declined from 3,373 in early 1945 to 2,447 by the end of that year. Of these, 1,800 were voluntary workers. By late 1945, 179 delegates worked in 76 delegations on five continents.\(^{39}\)

Three years later, during the period corresponding to the end of the repatriation of prisoners of war held by the Western Allies, the number of ICRC staff had fallen to 394, of whom 60 were voluntary workers. Of the 90 remaining delegates, manning 34 delegations, 33 were volunteers. The most heavily staffed delegation was the Paris delegation, owing to the large number of German prisoners of war still in France. Of a total of 300,000 prisoners of war, some 120,000 had been made civilian workers.\(^{40}\)

**The presidency**

Max Huber, who had been president of the ICRC since 1928, had expressed his wish to retire at the end of 1944, at the age of 70. On 4 December 1944 Carl J. Burckhardt, who had been standing in as deputy since 1942 and who had played a major role during the war, was appointed new president.

However, no sooner had Carl Burckhardt taken up his position than he was appointed, on 20 February 1945, to the position of envoy extraordinary and minister plenipotentiary of Switzerland to France. Under the circumstances Max Huber agreed to return to the ICRC until the end of 1946. On 24 February 1945 he took office as honorary president “ad interim”, while Carl Burckhardt remained president “on leave”, his assignment in Paris being considered temporary at the time.

At the end of 1946, when Max Huber had reached the end of his term as president ad interim, Carl Burckhardt was unable to resume his duties as president. The ICRC therefore decided to appoint the two vice-presidents, Ernest Gloor and Martin Bodmer, at the head of the organization for 1947.

In early 1948 Carl Burckhardt, still held up by diplomatic obligations in Paris, stepped down as president but remained a member of the ICRC.

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\(^{38}\) ICRC Annual Report 1950, pp. 7–9.


\(^{40}\) At the end of 1947, the delegation in France employed 112 staff, of whom 20 were delegates and 8 technical staff from Geneva; see André Durand, op. cit., p. 565.
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On the recommendation of Carl Burckhardt, the ICRC approached Paul Ruegger\textsuperscript{41} who, on 21 May 1948, became the sixth president of the ICRC.\textsuperscript{42} He was succeeded by Léopold Boissier on 5 September 1955.\textsuperscript{43}

Born in Lucerne in 1897, Paul Ruegger studied law, with emphasis on international law, at the universities of Lausanne, Munich and Zurich. In 1918 he graduated with a doctorate from the University of Zurich, his doctoral supervisor having been Professor Max Huber. Soon thereafter he entered the Swiss Federal Department of Foreign Affairs, where Max Huber had been appointed special legal adviser for international affairs. It was in this context that Paul Ruegger formed part of the Swiss delegation to the League of Nations and in 1925 took an active part in the international conference for the supervision of the international trade in arms and ammunition. From 1926 until 1928 he worked as deputy registrar at the Permanent Court of International Justice in The Hague, of which Max Huber was president. In 1935, having returned to the Swiss Federal Department of Foreign Affairs and held a number of a diplomatic posts, he was appointed envoy extraordinary and minister plenipotentiary to Italy. He worked in this position until 1942, when he was declared \textit{persona non grata} by Mussolini’s government. In 1943 he started to work for the ICRC close to Max Huber before being appointed Swiss ambassador in London. In 1947 the Swiss Federal Council sent him on a special assignment to India and Pakistan to prepare the establishment of diplomatic relations with the two countries, then on the cusp of independence.\textsuperscript{44}

Following the unexpected departure of Carl Burckhardt, the vacancy at the head of the ICRC ushered in a period of uncertainty. Although Max Huber was certainly revered within the organization and his thinking continued to have a strong influence on the ICRC, he was also in failing health and disillusioned. Completely absorbed in its activities for the victims of the Second World War and its aftermath, the ICRC fell into a state of passivity that affected all areas of activity, with the exception of the development of international humanitarian law.

\textsuperscript{41} Minutes of the closed meeting of the ICRC held on 18 December 1947 – ICRC Archives, A PV.

\textsuperscript{42} He succeeded General Henri Dufour (1863–1864), Gustave Moynier (1864–1910), Gustave Ador (1910–1928), Max Huber (1928–1944) and Carl J. Burckhardt (1945–1948).


Paul Ruegger gave fresh impetus to the ICRC, seeking to broaden the types of situation (internal unrest) in which the ICRC worked, the victims it sought to assist (refugees and political detainees) and the activities it carried out (distribution of compensation to former Allied prisoners of war held by the Japanese). When it came to developing international humanitarian law he supported the organization’s efforts to protect civilians against the dangers of indiscriminate warfare. As far as the ICRC’s traditional activities were concerned, he pushed for the organization to carry these out wherever possible, regardless of region or continent. He strongly believed that “it was important to ensure that the ICRC’s activities should not appear arbitrary or dictated by preferences, or simply by geographical proximity; in other words, because some needs are brought to its attention while it remains unaware of others”.45

The new president was also a man of deeds, willing to travel to the field and not afraid of tough negotiations. One of the delegates general46 of the time even went so far as to qualify him as the first “president-delegate”. As early as May 1948, when he had only just taken office, he went on assignment to the Middle East, particularly Jerusalem, where the Arab-Israeli war was raging, and in March 1951 visited Beijing at the time of the Korean War. In November 1950 Paul Ruegger also became the first ICRC president to travel to Moscow, to pay a visit to the Soviet Alliance of Red Cross and Red Crescent Societies and to the government of the Soviet Union.47

The members of the Committee

When Paul Ruegger took office in 1948 the ICRC was composed of 19 members.48 Nine of them had been members since before the outbreak of the Second World War, and the remaining ten had been appointed in the years following 1945.

The ICRC had been looking to recruit members in the centre-left of the political spectrum, including Ernest Gloor and Adolf Lüchinger, both of whom were socialists, and to appoint popular personalities such as General Henri Guisan. The Committee felt the need to strengthen the organization’s position in Switzerland at a time when it not only sought financial support from the Swiss Confederation, but was also coming under criticism in the Swiss communist press.49

Swiss Federal Councillor Philipp Etter, whose opinion had weighed decisively in favour of the ICRC’s decision on 14 October 1942 not to launch a public appeal

45 Statement by Paul Ruegger at the plenary meeting of 4 November 1954, document SP 32, appended to the minutes of that meeting – ICRC Archives, A PV.
48 See p. 30 below.
49 See pp. 25 ff. below.
denouncing violations of international law, withdrew from the Committee in 1947. From that point on, the Committee no longer included active members of the Swiss government or parliament, which guaranteed greater independence from the Swiss Confederation.

By 1955 only four of the 19 Committee members, including the honorary president, had been in office since before the Second World War. Since 1948 four members had died, and a further four had retired. The Committee recruited seven new members to fill the gap left by these departures.

Financial catastrophe

After the Second World War the ICRC found itself in severe financial difficulties.

At the outbreak of war the ICRC had launched its activities with the help of a loan from the Swiss government and funds collected in Switzerland. From 1941 on it also received contributions from most of the governments and National Societies of the belligerent nations. To ensure its continued financing the ICRC had to recover from every government the cost of the activities it had carried out on behalf of nationals of the countries concerned. As far as relief deliveries were concerned (receiving, transporting and distributing packages for prisoners of war and civilian internees from National Societies, governments and private individuals, purchase of relief supplies), from 1942 onward the ICRC was paid a modest fee for handling expenses. Later on, when the organization was on the verge of bankruptcy, it was not without

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50 Philipp Etter, Swiss Federal Councillor from 1935 to 1959 (head of the department of the interior) and president of the Swiss Confederation in 1942 and 1947 at the same time as being a member of the ICRC (from 1940 to 1947). On his role in the decision not to launch an appeal, Jean-Claude Favez, The Red Cross and the Holocaust, edited and translated by John and Beryl Fletcher, Cambridge University Press, Cambridge, 1999, pp. 87 ff.

51 Adolf Lüchinger, Claude Du Pasquier, Edouard Chapuisat and Alec Cramer.

52 Suzanne Ferrière, Georges Patry, Adolf L. Vischer and René van Berchem.

53 See p. 31 below.

54 Switzerland’s total participation reached almost 20 million Swiss francs. Most of this amount was donated by the population in response to appeals and represented 55 per cent of total contributions. Contributions by other governments and National Societies amounted to 16.5 million Swiss francs, equivalent to some 45 per cent of total contributions. These were supplemented by different types of revenue from a variety of sources and allowed the ICRC to cover its expenses which, from 1939 to 1945, were in the order of some 50 million Swiss francs. See also Note D 91 of June 1950 on the financing of the ICRC, Collection D, 1950, Vol. V – ICRC Archives, V CD. See also Jean-François Golay, Le financement de l’aide humanitaire: l’exemple du Comité international de la Croix-Rouge, Peter Lang, Bern, 1990, pp. 57–59.

bitterness that it calculated that its services as intermediary had saved donors an estimated 40 million Swiss francs.\(^{56}\)

The ICRC’s financial situation began to deteriorate in 1944, when it had to start dipping into its reserves to cope with an increase in expenditure at the same time as its income was declining. For instance, the government of Italy suspended the payment of contributions with the signing of the armistice on 8 September 1943. Payments by the governments of Germany and Japan ceased upon capitulation, on 7 May and 2 September 1945, respectively, and the funds the German and Japanese governments had made available to the ICRC shortly before were frozen by the Swiss government under pressure from the Allies.

However, following the cessation of hostilities and the surrender of the German and Japanese armies, several million prisoners of war were taken. In addition, internally displaced persons and civilian populations were also in need. Activities carried out on behalf of prisoners of war alone, a priority for the ICRC under the 1929 Geneva Convention, consumed almost all of the organization’s resources. The vanquished nations, which were now the only countries with a direct interest in the continuation of relief activities, no longer had the means to contribute to funding. At the end of the 1945 financial year, the ICRC’s assets amounted to a paltry 200,000 Swiss francs, with the exception of a reserve set aside to cover delegation expenses and current risks.\(^{57}\)

In October 1945 the ICRC informed the Swiss government of its financial difficulties. By the end of that year Bern, taking into consideration the frozen Japanese and German funds, granted an advance payment of five million Swiss francs.

Nonetheless, by February 1946 the ICRC had to concede that it was on the verge of bankruptcy. Even though it had cut its budget for 1946 by more than a third compared with that of 1945, without immediate help it would soon have had to take measures tantamount to liquidation. However, it considered that such measures would be equivalent to surrender, and that it had “a moral duty to make one final all-out effort to obtain the resources” it needed.\(^{58}\) The last available option was to negotiate a further loan from the Swiss government, to which it addressed a memorandum informing it that the ICRC would not be able to continue its work beyond the end of May 1946.

The ICRC argued that, during the first four years of the war, most of its activities had been carried out for nationals of the Allied countries. Not coming to the aid of

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\(^{56}\) Minutes of the meeting of the Bureau held on 12 September 1946 – ICRC Archives, A PV.


\(^{58}\) Minutes of the plenary meeting of the ICRC held on 22 February 1946. Note of 19 February 1946 accompanying M. Huber’s report presented at the above plenary meeting – ICRC Archives, A PV and B CR 109-5.
prisoners of war of the defeated nations at that point would be contrary to the principle of impartiality and would harm the Red Cross which, it pointed out, was one of the components of Switzerland’s policy of ‘active neutrality’.

In April 1946 the Swiss government’s loan was increased from 5 million to 7.5 million Swiss francs. At the same time the ICRC was asked to reduce its expenditure as much as possible and to undergo an expert assessment to help it achieve this objective.\(^59\)

Since the ICRC did not wish to depend almost exclusively on a single government, on 25 June 1946 it sent a circular letter to governments and National Societies, enjoining them to examine by what means they might be able to secure the organization more reliable and generous financing than in the past. In its letter the ICRC noted that two types of funding were needed:

\begin{itemize}
  \item a) Funds which cover administrative expenses (…).
  \item b) Funds to prepare activities to be carried out by the Red Cross in the event of an international or civil war (…).
\end{itemize}

The funds in the second category should consist of assets available at all times and be sufficient to allow the launching of emergency relief activities and supply the necessary material assistance while waiting for the payment of contributions by the parties to the conflict or of donations from elsewhere. ‘Emergency assistance’ funds should be replenished at regular intervals.\(^60\)

One month later the Preliminary Conference of Red Cross Societies, gathered in Geneva at the invitation of the ICRC, voted unanimously to adopt a resolution inviting the National Societies to make an extraordinary contribution to the ICRC in the amount of 15 million Swiss francs, of which 10 million Swiss francs were payable before the end of 1947.\(^61\) A special commission was appointed to establish a schedule of the pro-rata contributions due from every National Society for the first contribution of 10 million Swiss francs, due before the close of 1947.\(^62\)

Yet the ICRC was soon to be disillusioned. On the eve of the 17th International Conference of the Red Cross, held in Stockholm in August 1948, National


\(^{61}\) See p. 55 below.

Society contributions to the first portion of 10 million Swiss francs amounted to a mere 1.8 million.\(^{63}\)

Under these conditions the ICRC submitted a proposal to the Conference that the National Societies should make a mandatory annual financial contribution to the ICRC, as was the case with the League. The ICRC further requested that governments should contribute to the annual payments either by guaranteeing payment by the National Society of its share or by making a separate contribution.\(^{64}\) Although the proposal was not formally accepted the Conference recognized that the ICRC had to be able to count on effective, regular financial support from governments and National Societies and to this end appointed a commission on the financing of the ICRC.\(^{65}\)

However, as it turned out, National Society contributions increased only a little. On the occasion of the Diplomatic Conference of 1949\(^{66}\) the ICRC therefore decided to turn directly to governments.

A draft resolution was submitted by the Turkish delegation, and the following resolution, Resolution 11, attached to the Final Act of the Diplomatic Conference, was adopted on 12 August 1949:

> Whereas the Geneva Conventions require the International Committee of the Red Cross to be ready at all times and in all circumstances to fulfil the humanitarian tasks entrusted to it by these Conventions,

> the Conference recognizes the necessity of providing regular financial support for the International Committee of the Red Cross.\(^{67}\)

Its confidence restored by this resolution, even though it had no force of law, the ICRC felt empowered to approach the governments of the States party to the Geneva Conventions and, from 1950 onward, to launch annual appeals to secure regular financial support.

The ICRC realized that Resolution 11 would not produce results immediately and thus in parallel pursued its efforts aimed at the release of the frozen funds.

Following endless representations, and with the agreement of the American and British governments, in the course of 1949 the ICRC obtained the release by

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\(^{66}\) See pp. 226 ff. below.

Switzerland of a donation of 10 million Swiss francs made by Japan in early August 1945. In the same year the Italian government made a contribution of 3.1 million Swiss francs in repayment of what it considered a debt of honour to the ICRC for services rendered to its nationals in the final weeks and months of the Second World War. As to the frozen German funds, the ICRC likewise considered that Germany was in its debt. However, it abandoned its claim in 1950, when the newly constituted government of the Federal Republic of Germany decided to settle its debt to the ICRC, which it estimated at 12.7 million Swiss francs, to be repaid in instalments over ten years. The first transfer of 2.5 million Swiss francs was made in 1951 for the current and preceding year. This was also the year in which Switzerland made the first of its regular contributions to the ICRC, which had been fixed at 500,000 Swiss francs.68

The above exceptional payments allowed the ICRC at last to accumulate reserves, notably to be able to ensure that it would be able to take immediate action in the event of conflict.69 However, it became obvious that such inflows of cash would not necessarily be repeated, as evidenced by the refusal of the United States government to reimburse the ICRC for expenses related to the Korean War of 1950 to 1953.70

Therefore, from 1949 onward the organization’s financial situation was no longer as alarming as in the preceding years. For the first time ever the ICRC set up an account for relief work from which it was able to withdraw the amounts needed to carry out its activities in the “new” conflicts and thus itself became a donor, albeit of very modest proportions.71 Nonetheless, its financial situation remained precarious and, from 1950 to 1955, its annual expenditure continued to exceed regular income. It was not until the end of the 1960s that the organization was able to balance its regular budget without major difficulties.72

The ICRC’s persistent financial distress during the immediate post-war period and the years following it affected the organization in a number of ways. It was forced not only to drastically cut the number of staff, but also to cease or reduce certain activities, especially relief provided to civilians suffering from the aftermath of the Second World War. Its fragile finances also slowed the ICRC’s work in the new conflicts that erupted after the war. Lastly, the situation had an impact on its recruitment policies.

At the end of 1955, even though the ICRC was now carrying out operations in new conflicts, the total number of employees had fallen to 227, of whom 45 were voluntary workers. A mere 45 delegates, including 30 volunteers, ran 25 delegations: four in Africa (including North Africa), seven in South America, seven in Asia, five in Europe and two in Australasia.73

70 Jean-François Golay, op. cit., pp. 90, 92 and 99.
71 Minutes of the meeting of the Presidential Council held on 29 September 1949 – ICRC Archives, A PV.
72 Georges Willemin and Roger Heacock, op. cit., p. 89.
Unlike during the Second World War most volunteers were now working in the field. They were Swiss citizens resident abroad and recruited on site, their role generally being limited to that of an ICRC correspondent in charge of liaison with the governments and National Red Cross Societies of the countries or regions in which they lived. Although the ICRC would have preferred to be able to draw on a pool of seasoned delegates capable of dealing with any eventualities, its finances did not permit this – its resources did not match its ambitions.

**Under fire from its critics**

During the Second World the ICRC conducted operations on an unprecedented scale, especially for prisoners of war and civilian internees. Its delegates carried out more than 11,000 visits to camps. On the basis of lists supplied by the detaining powers and requests for news received from families, the Central Prisoners of War Agency opened 39 million files. It processed one million separate requests and exchanged 13 million messages between prisoners of war and their families and 24 million messages between civilians. It also received and forwarded 120 million letters.

Neither frontlines nor blockades stopped the ICRC from delivering to prisoners of war and civilian internees some 440,000 tonnes of relief supplies worth 3.3 billion Swiss francs. The value of relief goods supplied to civilian populations, including by the Joint Relief Commission of the International Red Cross, amounted to 500 million Swiss francs.

Lastly, the ICRC sent 1,631,000 parcels weighing a total of 6,836 tonnes to detainees in German concentration camps. Of these, 1,112,000 parcels (equivalent to 4,400 tonnes of supplies) were dispatched between November 1943 and May 1945, the remainder being sent after hostilities had ceased.

However, the ICRC also suffered its share of setbacks. Despite repeated representations it was unable to carry out activities on behalf of soldiers captured on the Eastern Front, or for German prisoners of war in the Soviet Union and Soviet soldiers held in Germany, and intervened only very intermittently on behalf of Allied prisoners of

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74 Georges Willemin and Roger Heacock, *op. cit.*, p. 42.
75 Over 85 per cent of these relief supplies were sent to Allied prisoners of war, mostly French and British nationals. See the *Report of the International Committee of the Red Cross on its activities during the Second World War (September 1, 1939–June 30, 1947)*, Vol. IV, “Annexes”, ICRC, Geneva, 1948, p. 5.
76 See pp. 35 ff. below.
war who had fallen into the hands of the Japanese in the Pacific war theatre. Since the two main belligerents in these theatres of operation, the Soviet Union and Japan, were not party to the Geneva Convention of 1929 relative to the Treatment of Prisoners of War, the Convention was not applicable de jure. The ICRC also did not start carrying out activities in territories occupied or annexed by the Third Reich until fairly late, and even then on a limited scale. In particular, however, until the closing days of the war the ICRC was able to do virtually nothing for the victims of the Holocaust or for concentration camp inmates.\footnote{Report of the International Committee of the Red Cross on its activities during the Second World War (September 1, 1939–June 30, 1947), Vol. I, op. cit., pp. 419 ff., 454 ff. and 635 ff. André Durand, \textit{op. cit.}, pp. 434 ff., 451 ff. and 501 ff. François Bugnion, \textit{op. cit.}, pp. 212 ff., 218 ff. and 224 ff.}

In October 1945 the ICRC received a letter of recognition from General Dwight Eisenhower, supreme commander of the Allied Expeditionary Force, for its activities on behalf of prisoners of war and their families. One month later, in November 1945, the organization was awarded the Noble Peace Prize for the year 1944. Lastly, in September 1946, former British Prime Minister Winston Churchill paid the ICRC the honour of a visit during a stay in Switzerland. The ICRC devoted a considerable number of pages in the \textit{International Review of the Red Cross} to publicizing these expressions of recognition.\footnote{Minutes of the meetings of the Bureau held on 30 October, 7 November, 15 November and 19 December 1945 – ICRC Archives, A PV \textit{RICR}, No. 323, November 1945, pp. 821 ff. and 823 ff.; No. 325, January 1946, pp. 1 ff.; and No. 334, October 1946, pp. 823 ff.}

Yet at the same time, and notwithstanding the tremendous efforts it had made during the war, the ICRC was also the subject of fierce criticism. As the horrors of the concentration camps were being revealed to a dumbstruck world, the ICRC was accused of not having done everything in its power to come to the aid of the camps’ inmates and of not having publicly denounced the fate of the Jews. The Soviet Union and communist circles in general accused it of having kept silent about the inhuman conditions of detention of Soviet prisoners of war under the Third Reich.\footnote{Of the 5.7 million Soviet prisoners of war in the hands of the Third Reich, some 3.3 million died in captivity, as did almost one-third of the estimated 3 million German and Austrian prisoners of war captured by the Soviet Union. See \textit{Encyclopedia of Prisoners of War and Internment}, ABC-CLIO, Santa Barbara, California, 2000, p. 329.} In short, the ICRC was reproached for not having spoken up about the crimes of the Nazi regime.

This was compounded by the fact that public opinion failed to comprehend the organization’s work on behalf of German prisoners of war, especially those prosecuted for war crimes,\footnote{See p. 136 below.} and the German civilian population. In the eyes of the ICRC, however, its work complied with the principle of impartiality.

Other critical voices, especially from America, denounced the excessively close links between the ICRC and Switzerland, the management of the Joint Relief Commission of the International Red Cross\footnote{See pp. 44 ff. and 174 below.} and the alleged improper distribution of travel documents to war criminals.\footnote{See pp. 164 ff. below.}
Before the world was polarized into two separate blocs, critical voices were heard not only in the Soviet Union and Eastern European countries, who had suffered the most under German occupation, but also in the United States and the West. The criticisms even fell on fertile ground within the Red Cross Movement, with the very existence of the ICRC being called into question by a number of Eastern European National Societies and by Count Bernadotte, President of the Swedish Red Cross, who proposed that nationals of countries other than Switzerland should also be able to serve as members of the Committee.  

The ICRC’s isolated position within the International Red Cross echoed that of Switzerland, whose neutrality had become suspect within the international community. However, with the onset of the Cold War the situation changed for both the ICRC and Switzerland. It became important for the Western bloc to close ranks. The most violent attacks against the ICRC came from communist countries and circles, in particular the communist press in Switzerland. The criticism focused on the organization’s close ties with the Swiss Federal Council, the banks and the big Swiss industrial companies, accused it of complicity with Nazi Germany and went so far as to personally target Presidents Max Huber and Carl Burckhardt.

At the time the ICRC was on the defensive and did not question its attitude. It considered that the criticisms levelled at it were the product of a “total” lack of

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84 See p. 53 below.
85 For the criticisms directed at the ICRC see ACIC – B G 22 and A CL 02.03.05, 02.03.06, 10.20.00 and 12.02.04. These records are also mentioned in the minutes of the meetings of the Bureau from 1945 to 1947 – ICRC Archives, A PV. The communist press specifically denounced M. Huber’s ties to the company Aluminium Industrie SA (AIAG), the German subsidiary of which took part in the war effort and used forced labour. Huber had resigned from the position of president of the board of directors in 1941, but had remained a member of the board until 1945. He had publicly stated that he would continue to occupy the position only if any remuneration associated therewith was paid directly into the company’s welfare services fund. See ICRC Archives – A CL 20.003.02.
86 The aim here is not to pass judgment on the ICRC’s efforts to help the victims of Nazi persecution or on the pertinence of the criticisms directed at the organization, but to state the facts and recall the context of the period. In 1979, conscious of the fact that it had not yet fully investigated its attitude to Nazi persecution, the ICRC opened the sections of its archives devoted to the Second World War to an independent historian. The subsequent research resulted in the work by Prof. Jean-Claude Favez entitled Jean-Claude Favez, The Red Cross and the Holocaust, edited and translated by John and Beryl Fletcher, Cambridge University Press, Cambridge, 1999. Readers may also wish to consult the following publications: François Bugnion, op. cit., pp. 224–256, and Arieh Ben-Tov, Face au genocide: la Croix-Rouge et les Juifs de Hongrie, 1941–1945 (translated and adapted by Jonathan Breen, with the collaboration of Dominique-Debora Junod), Editions Payot, Lausanne, 1997. Regarding the ICRC’s ties to the Swiss establishment, see Daniel Bourgeois, Business helvétique et troisième Reich: milieux d’affaires, politique étrangère, antisémitisme, Editions Page deux, Lausanne, 1998. Some of these aspects are also examined in the Final Report of the Independent Commission of Experts Switzerland – Second World War, La Suisse, le national-socialisme et la Second Guerre mondiale, Pendo, Zurich, 2002. In keeping with the approach adopted in 1979, the ICRC in 1996 opened to the public documents in its general archives going back more than 50 years. In 2004 this was shortened to 40 years.
87 Minutes of the meeting of the Bureau held on 8 May 1947 – ICRC Archives, A PV.
understanding of the scope and limits of its mandate, which it set out to address in particular by writing an extremely detailed report on its activities during the Second World War. According to Max Huber, the failings of which the ICRC stood accused were entirely unfounded, and no other institution, whether a protecting power, neutral power or National Red Cross Society, had been able to make any headway with the Third Reich. The failures with which it was charged were, in fact, those of the whole world. As far as Soviet prisoners of war were concerned, the ICRC’s inability to reach them had been due to the fact that the Geneva Convention on prisoners of war did not apply on the Eastern Front, the Soviet Union not having ratified it. Civilians in the occupied territories were not protected by a single international agreement. The main reason for all of the above, however, had been the refusal by the authorities of the Third Reich and of the Soviet Union to allow the ICRC to carry out its proposed activities for victims. As to public denunciations, the ICRC believed that these would not have changed the fate of the victims but put in danger its work on behalf of prisoners of war on the Western Front. The organization’s critics responded by condemning what they considered to be a legalistic attitude and lack of courage.

On a personal level, Max Huber, who had devoted himself to the ICRC for seven years to the detriment of his health and family life, decided not to institute legal proceedings for libel out of concern that doing so would blow up the controversy even further. When he left office, he declared that “the presidency (...) had led to great personal sacrifice”, continuing that it had been “a source of not only worry but also disillusionment and bitterness. (...) Being in the public eye is what is most difficult about holding office.”

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89 M. Huber considered that wherever the Swedish Red Cross and Swedish government had been able to carry out activities (relief delivered to the Greek civilian population, German concentration camps), they had been following in the footsteps of the ICRC. See the minutes of the meeting of the Bureau held on 8 May 1947, cited above.

90 Idem.

91 ICRC Archives – A CL 02.03.06.

92 Minutes of the closed plenary meeting of the ICRC held on 29 January 1947 – ICRC Archives, A PV.
Introduction

Difficult relations with the Soviet Union

Even though the ICRC was unable to gain access to the Soviet Union, after the Second World War ICRC delegates were nonetheless soon allowed to carry out activities in several countries occupied by the Soviet armed forces. In these countries, and more particularly in Berlin, a measure of cooperation was established with the Soviet authorities, even if it was limited to relief operations.

In May 1946, shortly after the agreement of March of that year to restore diplomatic relations between Switzerland and the Soviet Union, discontinued in 1918, the ICRC considered that the moment had come to attempt to reenter into contact with the government of the Soviet Union and the Soviet Alliance of Red Cross and Red Crescent Societies in Moscow.93

On the occasion of a session of the Board of Governors of the League of Red Cross Societies in Oxford in July 1946, Max Huber suggested to the president of the Alliance that it should send an envoy to Geneva and, together with the ICRC, reflect on any items open to discussion. The invitation was confirmed by letter, repeated orally when Max Huber visited the Soviet ambassador in Bern, and reiterated in writing.94 No reply was ever received.

In March 1948 the ICRC addressed a telegram to Stalin in which it proposed sending a delegation headed by the new president of the ICRC, Paul Ruegger, to Moscow. Two weeks later, the Soviet ambassador in Bern travelled to Geneva to inform the ICRC that his government did “not at present consider it opportune to exchange on the activities of the Red Cross”.95 Neither the Soviet government nor the Alliance took part in the 17th International Conference of the Red Cross, held in July 1948 in Stockholm. Both cited the presence of the ICRC as the reason for their non-attendance.96

Concerned by the large number of people reported missing in the Soviet Union,97 and the possibility of a third world war between the East and West, the ICRC made a further attempt in December 1949, following the active participation of the Soviet Union in the Diplomatic Conference of 1949. It sent a letter to the minister of foreign affairs in Moscow, proposing an exchange of views between the Soviet government and the National Society of the Soviet Union on the one hand, and the ICRC on the

93 Minutes of the meeting of the Bureau held on 21 May 1946 – ICRC Archives, A PV.
94 Minutes of the meeting of the Bureau held on 25 July 1946, letters of 31 July 1946 and 3 December 1946 from M. Huber to Prof. Kolesnikoff, president of the Alliance, and Anatole Koulagenkov, envoy extraordinary and minister plenipotentiary of the Soviet Union to Switzerland – ICRC Archives, A PV, B CR 64-32 and B CR 241/II-10.
95 Telegram of 31 March 1948 from E. Gloor and M. Bodmer, vice-presidents of the ICRC, to Generalissimo Stalin. Note from J. Duchosal on the visit by A. Koulagenkov to the ICRC on 14 April 1948 – ICRC Archives, A CL 08.025.00.
96 See p. 73 below.
97 See pp. 122 ff. below.
other, to examine how, in the event of a conflict, the ICRC might be able to undertake the tasks incumbent upon it under the Geneva Conventions of 1949 as efficiently as possible. No response was received to this proposal. It was repeated in April 1950 and, in August 1950, followed up by a further telegram to Stalin.

This last offer having been accepted, the president of the ICRC travelled to Moscow in November 1950. In addition to holding meetings with the heads of the Alliance, Paul Ruegger was received by Soviet Deputy Foreign Minister Andrei Gromyko. Although the mission raised hopes, it never produced any tangible results. On the contrary, the investigation into the alleged use of bacteriological weapons in Korea, in 1952, triggered a new and extremely virulent round of attacks by the Soviet Union on the ICRC, especially during the 18th International Conference of the Red Cross held in Toronto in November that year. The charges continued until the early months of 1953.

The fact that it proved impossible for the ICRC to establish meaningful relations with the Soviet Union heralded its inability to carry out activities on the communist side of the armed conflicts that erupted after the Second World War in China, Indochina and Korea.

In the eyes of the Soviet Union and countries under communist rule, the Committee members’ Swiss nationality and middle-class background squarely placed the ICRC in the Western, capitalist camp, the principle of neutrality, on which its activities are based, being a concept foreign to Marxism.

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98 See p. 103 ff. below.
99 Document D 318, dated 27 November 1953 and unsigned, on the ICRC’s general relations with the Soviet Union since 1939, appended to the minutes of the plenary meeting of the ICRC held on 17 December 1953 – ICRC Archives, A PV.
List of members of the ICRC in 1948

Max Huber  
Doctor of Laws, former President of the Permanent Court of International Justice, *Honorary President* (1923)

Paul Ruegger  
Doctor of Laws, former Swiss Ambassador to Italy and Great Britain, *President* (1948)

Ernest Gloor  
Doctor of Medicine, *Vice-President* (1945)

Martin Bodmer  
Vice-President (1940)

Jacques Chenevière  
Hon. Doctor of Literature (1919)

Suzanne Ferrière  
Deputy-Director of the International Social Service (1924)

Georges Patry  
Doctor of Medicine, Colonel, former Swiss army divisional medical officer (1929)

Lucie Odier  
Former Director of the District Nursing Service, Geneva branch of the Swiss Red Cross (1930)

Carl J. Burckhardt  
Doctor of Philosophy, Swiss Ambassador to France (1933)

Edouard Chapuisat  
Hon. Doctor of Literature (1938)

Alec Cramer  
Doctor of Medicine, Colonel, army medical service (1938)

Adolf L. Vischer  
Doctor of Medicine (1945)

René van Berchem  
Doctor of Laws, banker (1946)

Léopold Boissier  
Doctor of Laws, Professor at the University of Geneva, Secretary-General of the Inter-Parliamentary Union (1946)

Edmond Grasset  
Doctor of Medicine, Professor at the University of Geneva, Director of the Institute of Public Health (1946)

Adolf Lüchinger  
Doctor of Laws, President of the city of Zurich (1946)

Paul Carry  
Doctor of Laws, Professor at the University of Geneva (1946)

Claude Du Pasquier  
Doctor of Laws, Colonel of division, Professor at the universities of Geneva and Neuchâtel (1947)

Henri Guisan  
General, former Commander-in-Chief of the Swiss army (1948)

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101 The year of nomination as member of the ICRC is indicated between parentheses.
New members elected between 1949 and 1955

Alfredo Vannotti  
Doctor of Medicine, Professor at the University of Lausanne (1949)

Rodolfo Olgiati  
Former Director of Don Suisse (1949)

Marguerite van Berchem  
Former Head of Section, Central Prisoners of War Agency (1951)

Frédéric Siordet  
Lawyer, Adviser to the ICRC since 1943 (1951)

Ernest Nobs  
Former Federal Councillor (1952)

Marcel Junod  
Doctor of Medicine, delegate of the ICRC from 1935 to 1946 (1952)

Guillaume Bordier  
Engineer, banker (1955)
PART I
The ICRC and the Red Cross Movement

At the close of the Second World War the ICRC’s existence was contested within the very International Red Cross, an experience that was nothing new in itself.

The ICRC’s position had already been called into question in 1919 on the occasion of the creation of the League of Red Cross Societies,¹ which coincided with the founding of the League of Nations. At the time, general opinion would have it that the world had been delivered from the scourge of war for good, and this belief did much to diminish the value of the ICRC’s role of neutral intermediary. It took nearly ten years of negotiation and four International Conferences of the Red Cross to convince the Red Cross Movement that both the ICRC and the League were needed as complementary institutions and that they should not be amalgamated into a single body. The long road of negotiations had been crowned with success at the 13th International Conference, which gathered in The Hague in 1928 and adopted the first International Statutes of the Red Cross, the draft version of which had been prepared by Max Huber, member of the International Committee, and Colonel Draudt, vice-chairman of the League, and which provided for both bodies to be maintained within a wider institution, the International Red Cross.² From 1943 onward, on the impulse of its President, Max Huber, the ICRC had examined a number of matters relating to the eventual aftermath of the Second World War, including the ICRC’s position within the International Red Cross.

¹ Now the International Federation of Red Cross and Red Crescent Societies.
The ICRC had assumed that, as after the First World War, once peace was restored some governments and National Red Cross Societies would cast doubt on the need for a specific neutral intermediary. It also believed that the idea of grouping the National Societies around the ICRC – the effect of which would be to “drown” the ICRC in the League – would resurface. As a result, the ICRC expected that some National Societies would take the initiative to revise the Statutes of the International Red Cross. To be prepared for these eventualities, the ICRC had resolved to “uphold the principle of the most uncompromising neutrality” and to maintain an independent existence, even at the risk of isolation, at a time when it was no longer able to demonstrate its usefulness as a neutral intermediary. In the words of Max Huber, “[the ICRC] will rise up again under the conditions that are its true raison d’être”. As to the Statutes, it was considered preferable to leave them untouched, since it would have been difficult to come up with a new text that would have been acceptable to both the National Societies and the League and, in the ICRC’s view, preferable to the version of 1928.\(^3\)

The closing days of the war confirmed the ICRC’s predictions. Its status of neutral intermediary was called into question by the International Red Cross at a time when the very concept of neutrality was demolished in international relations.\(^4\)

The attacks against the ICRC in the aftermath of the Second World War proved to be both more virulent and of a different nature than those of the interwar period. A defining feature was the violent criticism from the communist camp which, paradoxically, ended up saving the ICRC.

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\(^3\) Confidential letter of 11 May 1943 from M. Huber to the members of the International Committee. Letters of 4 June and 8 June 1943 from C.J. Burckhardt and J. Chenevière, respectively, to M. Huber – ICRC Archives, A CL 14.12.00. Minutes of the plenary meeting of the ICRC held on 17 December 1943 – ICRC Archives, A PV.

\(^4\) See p. 26 above.
CHAPTER 1
From the cessation of hostilities to the 17th International Conference of the Red Cross

During the Second World War the ICRC’s activities reached an unprecedented scale, while the League did little more than mark time. Paralyzed by its international membership, the League was forced to put most of its work on hold and was no longer able to convene meetings of its governing bodies. Pursuant to Article 9 of the 1928 Statutes of the International Red Cross concerning activities in time of peace, the ICRC had pushed for the constitution of a Joint Relief Commission of the International Red Cross to enable the League to take part in relief activities for civilians.

The creation of the Commission not only had administrative and financial advantages, it also made it possible to make the most of the strengths of each organization: the League was especially well placed to obtain relief supplies, thanks to its close relations with National Societies, and it was headed by the president of the American Red Cross, who from the early days of the war had expressed a clear wish to assist the civilian populations of occupied Europe. However, several of the League’s senior officials were nationals of the enemy Axis powers, and thus the League was not in a position by itself to conduct relief operations in countries occupied by the armed forces of the Axis States. The ICRC, in contrast, as a recognized neutral and impartial intermediary, was able to operate in most of the belligerent nations and, through its delegations, to provide a range of practical services.

The Joint Commission, however, was also a way of preventing the League from setting up its own body for civilian relief activities and the two Red Cross organizations from working in parallel, thereby avoiding potential confusion and duplication of efforts.³

As a result, from 1941 to 1946 the Joint Commission was able to purchase, transport and distribute 165,000 tonnes of relief supplies worth 314 million Swiss francs, mostly to women and children.⁴

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¹ See p. 24 above.
² See p. 10 above.
³ Minutes of the meeting of the Bureau held on 25 July 1946 – ICRC Archives, A PV.
When hostilities ceased, the League restored ties with all member Societies. Having learned from its experiences during the war, it now looked for a special field of activity that would remain its own even in time of war. The obvious answer was relief for the benefit of civilians, an area in which it had recent experience. At the same time the League sought to strengthen its role as coordinator of the activities carried out by National Societies in times of both peace and war.

This led to the resurgence of a problem that had not been resolved when the Statutes of the International Red Cross of 1928 were adopted: on the one hand the Statutes stipulated that the ICRC intervened in time of war, civil war or civil strife but did not expressly stipulate that it coordinated National Society activities in these situations. On the other hand, the article concerning the League referred to the Constitution of the League for the definition of the League’s purpose. According to the Constitution, the object of the League was “to encourage and facilitate at all times Red Cross action for the relief of suffering humanity”. For this purpose it was required in particular to “act as an organ of liaison which collaborates with the Red Cross Societies to develop, promote and coordinate their assistance work in the event of national or international calamity”.

The League’s attempt to expand its influence came at a time when the ICRC suffered a severe shortage of funds and was forced to cut back its activities. It was favourably received by a number of Western National Societies wishing to play a dominant role in post-war relief efforts and fearing that the ICRC’s activities in this area would overshadow their own. The League’s move was further facilitated by the fact that during the war the ICRC had focused on developing relations with governments in order to be able to carry out its work. A number of National Societies, feeling disregarded, faulted the ICRC for not having kept them sufficiently well informed of its contacts and representations.

These criticisms were compounded by those expressed by the Soviet Union and Eastern European nations formerly annexed or occupied by Germany, where victims had not received assistance from the ICRC despite representations made to the German government. The authorities and National Societies of these countries, headed by the Yugoslav Red Cross, interpreted the ICRC’s difficulties in coming to their aid as a sign of partiality or lack of good will.

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5 See Introduction, p. 9 above.

6 See p. 9 above.


8 This analysis is based in part on Jean Pictet’s work *Une institution unique en son genre: le Comité international de la Croix-Rouge*, Institut Henry Dunant, Geneva, Editions A. Pedone, Paris, 1985, pp. 49 ff.
Initially these different sentiments and initiatives converged and resulted in the dissolution of the Joint Commission. Other proposals aimed to strengthen the League to the detriment of the ICRC or to transform the ICRC into an international body.

However, from 1947 the Red Cross Movement, too, was affected by the fallout of the Cold War, which shifted the framework of the debate in a way that would ultimately prove favourable to the ICRC.

The three years following the end of the Second World War were marked by a series of meetings of the International Red Cross that reflected this change of fortune and culminated in the 17th International Conference of the Red Cross, held in Stockholm in August 1948.

The Advisory Conference of National Red Cross Societies

In August 1945, as war continued to rage in the Far East, the League of Red Cross Societies informed the ICRC of its intention to invite representatives of the National Societies to Geneva in mid-October to prepare the next meeting of the Board of Governors, which had not gathered since 1938. The initiative took the ICRC by surprise; it had also planned to consult the National Societies on their wartime experiences, notably as part of preparations for the revision and development of the existing humanitarian conventions, but had not yet fixed a date. The ICRC reluctantly considered holding its meeting at the same time as that of the League, but the mid-October deadline proved too tight. It did, however, decide immediately to confirm the principle of a forthcoming meeting with the National Societies.

As a result, on 10 September 1945 the ICRC proposed to National Societies that they should meet at the latest in the first quarter of 1946. At the same time it informed the League of its wish to take advantage of the presence of National Societies’ representatives in Geneva in mid-October 1945 in order to hold discussions with them about the revision and development of the humanitarian conventions.

The Advisory Conference of Delegates of Red Cross National Societies, convened by the League, was held in Geneva from 15 October to 2 November 1945. More than 40 of the 60-odd National Societies then in existence took part. The list of absentees included the Soviet Alliance of Red Cross and Red Crescent Societies, which had

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9 On the Board of Governors, see Introduction, p. 9.
10 See p. 212 below.
11 Minutes of the meetings of the Bureau held on 15 August, 22 August, 29 August and 5 September 1945 – ICRC Archives, A PV.
13 Letter of 9 August 1945 from M. Huber to B. de Rougé, Secretary-General of the League, and reply by B. de Rougé of 13 August 1945 – ICRC Archives, B CR 64-31.
been invited to attend. The League asked the ICRC to be represented at its sessions, and vice versa.¹⁴

**Days reserved for the ICRC**

Apart from a visit to its main services, the sessions of 18 and 22 October, set aside for the ICRC, were spent preparing the meeting of Red Cross Societies to be held in 1946. The ICRC submitted a draft agenda to National Society representatives, the second half of which covered problems specific to the Red Cross.¹⁵ The numerous activities carried out during the Second World War by both National Societies and International Red Cross organizations called for an exchange about certain aspects of these activities, many of which had not been conducted before. The objective was therefore to discuss experiences in the different countries, to draw conclusions for future action and by common agreement to determine uniform principles of action. It was further considered necessary to examine whether some of the tasks specific to the Red Cross should not have a firmer basis in international humanitarian law. The main points retained by the ICRC were as follows:

- **National Society activities in time of war**, especially the question of assistance to active soldiers enlisted in the national armed forces and neither wounded nor sick. This included the sending of relief supplies to the frontline, the organizing of welfare and leisure activities for active soldiers and the provision of social support to their families. A number of National Societies voiced their concerns in this respect, questioning whether it was appropriate to carry out such welfare activities under the protection of the red cross emblem.

- **Collaboration of the National Societies with each other and their relations with the ICRC in time of war**: this included relations between National Societies of belligerent States, between the National Societies of neutral States and the belligerent nations, the situation of National Societies of occupied territories, and collaboration and exchange of information with the ICRC.

- **The creation and recognition of National Societies**: this item referred to the potential effects of war on the status of States (annexation, occupation, etc.) and thus also on that of National Societies, such as the founding of new National Societies and the dissolution of others, changes imposed from outside and National Societies being split up and reconstituted under the aegis of governments in exile. Another aspect was the position to be adopted in this respect by the ICRC, as the organization

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¹⁴ Letter of 26 September 1945 from the secretary-general of the League to the ICRC, and reply by the ICRC of 10 October 1945. Invitation of 18 October 1945, sent by the ICRC to the representatives of the National Societies to attend the working session of 22 October 1945 – ICRC Archives, BCR 64-31. Minutes of the meetings of the Bureau held on 19 September, 26 September, 3 October, 10 October and 17 October 1945 – ICRC Archives, A PV.

¹⁵ The first part concerns the revision of the existing humanitarian conventions and the drafting of new conventions, see p. 215 below.
entrusted by the International Conference of the Red Cross with the task of recognizing new National Societies.

During the war the ICRC had been faced with situations beyond its mandate and on which it had not felt free to comment, owing to their political nature. In 1941 it had set out in Circular No. 365\(^{16}\) the principles having guided its decision to suspend the recognition of National Societies for the duration of the conflict and to maintain *de facto* relations with all Red Cross groups, whether officially recognized or not, if this was necessary to carry out activities for the victims.

- **National Societies’ protests against alleged violations of the humanitarian conventions:** under Article 7 of the Statutes of the International Red Cross of 1928, the ICRC was entrusted with the task of taking cognizance of any complaints regarding alleged violations of the international conventions.\(^{17}\)

  In this instance the ICRC was not concerned with the numerous complaints it had received about failures to observe one or other of the provisions of the Geneva Conventions, such as those concerning the treatment of prisoners of war, and about which it had actually been able to take action by visiting the prisoners. Instead, this item referred to protests against breaches of the main principles of the law of nations and law of humanity, which almost invariably concerned incidents that had already taken place. The ICRC’s practice had consistently been that of passing on complaints received from National Societies to the National Society of the State in question and of transmitting protests from governments to the government of the State concerned. At times National Societies asked that their complaints be made known to all National Societies or, in some instances, to the public. As a rule, however, the ICRC was unable to meet such requests as it was not able to take a stand on allegations it could not verify.

  As to its possible participation in an inquiry, the ICRC recalled its memorandum of 12 September 1939,\(^{18}\) according to which it could not appoint itself as a member of a commission of inquiry, its role being limited to choosing one or more qualified individuals to carry out an investigation, subject to the formal consent of all States concerned.

  Having noted that its practice in this matter had resulted in objections from several governments and produced very few positive results, the ICRC wondered whether it was in fact competent to transmit these protests, at the risk of compromising its work. It therefore posed a number of conditions that would have to be met if it was to continue in this role. In particular, the ICRC sought reassurance that National Societies and governments would support it in this task, by subjecting every protest to an appropriate inquiry and giving a detailed reply.

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\(^{16}\) *RICR*, No. 273, September 1941, pp. 763–767.

\(^{17}\) See p. 10 above.

\(^{18}\) *RICR*, No. 249, September 1939, pp. 766–769.
• *The Red Cross and the new methods of warfare:*\(^{19}\) the National Societies unanimously approved the conference proposed by the ICRC in principle and requested that it should be held in the first half of 1946, as close as possible to the meeting of the League’s Board of Governors. The representatives of the National Societies further agreed to the content of the proposed agenda and suggested several additions, which were accepted.\(^{20}\)

*Joint session of the ICRC and the League*

The joint session of the ICRC and the League, held on 24 October, was primarily devoted to the activities of the Joint Relief Commission of the International Red Cross.

After hostilities had ended in Europe, the ICRC had decided to dissolve the Commission, which had been constituted to carry out activities in time of war, even if this meant taking on some of the services it offered. Since Article 9 of the Statutes of the International Red Cross provided for cooperation of the ICRC and the League in the area of relief in time of peace, there seemed to be no purpose in keeping the Commission operational.\(^{21}\) The League had indicated that it fully supported this measure, which also appeared to please the Allied authorities.\(^{22}\)

However, the two organizations subsequently realized that, in light of the scale of ongoing activities, it would not be feasible to wind up the Commission in the immediate future and that it would have to remain active for several more months. To replace the Commission, the ICRC and the League made the following proposals at the session of 24 October:

The League was of opinion that it could not remain associated with a body handling relief activities other than those requested, or organized, by Red Cross Societies. Both the International Committee and the League thereupon agreed to the idea of creating a joint bureau, which would deal with the requests or offers of relief originating with National Societies, and which would treat these matters either independently or through the intermediary of the Committee, the League or some other body.

\(^{19}\) See pp. 213, 215 and 256 ff. below.


\(^{21}\) See p. 10 above.

\(^{22}\) *Report of the International Committee of the Red Cross on its activities during the Second World War (September 1, 1939–June 30, 1947)*, Vol. III, *op. cit.*, p. 418. Minutes of the meetings of the Bureau held on 2 May, 16 May, 6 June and 22 July 1945, and minutes of the plenary meeting of the ICRC held on 22 June 1945 – ICRC Archives, A PV.
Furthermore, the International Committee were of opinion that it would be regrettable to deprive welfare organisations other than National Red Cross Societies, of the executive machinery made available hitherto by the Joint Commission. To this effect the International Committee envisages, after the dissolution of the Joint Commission as such, the creation of a Foundation. This Foundation would permit, in case of need, and in response to agencies expressing the wish, the prosecution of relief activities in which the Committee might be called upon to act as intermediary.\textsuperscript{23}

In general, in the light of ongoing needs, the National Societies were surprised that the League and the ICRC should propose on the one hand the dissolution of the Joint Commission and, on the other, the creation of two new bodies, a joint bureau and an ICRC foundation. The delegates declared their willingness to cooperate with the ICRC within the joint bureau but were not certain that it was wise to continue cooperating in relief activities with organizations not part of the Red Cross. As a result, the Advisory Conference decided to submit this question of principle to the League’s Board of Governors.\textsuperscript{24}

Faced with the reservations of the National Societies, the ICRC realized that it would have to abandon the idea of a foundation, if only for financial reasons. The best solution seemed to be to postpone the dissolution of the Joint Commission so that it would be able to continue its work under the same conditions as during the war. However, the ICRC considered that an initiative to this effect would have to come from the National Societies, since the ICRC was not able to revoke the letter in which it had declared its intention of withdrawing from the Commission.

The decision to dissolve the Commission – subsequently judged premature – had been taken by the decision-making bodies of the ICRC in the absence of Max Huber. The President ad interim regretted the decision, which came at a time when Europe, especially Germany and the Eastern European countries, was in desperate need of relief supplies and the Commission operated as an implementing agent for some National Societies (including the Swiss Red Cross) and a number of other organizations including Don Suisse,\textsuperscript{25} the YMCA (Young Men’s Christian Association), the Quakers and the American Joint Distribution Committee. It also provided support to the delegations of the ICRC. Max Huber believed that, in the aftermath of the war, the Joint Commission was in fact more important for the ICRC than for the League. If the Commission was to be dissolved, he preferred the decision to be taken by the League, since doing so would give the ICRC greater freedom in carrying out its own relief activities for civilians. He was therefore keen to delay the implementation of the


\textsuperscript{25} On Don Suisse, see footnote 14, p. 153 below.
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decision to dissolve the Commission in order to give the ICRC time to organize its own operations.26

The Advisory Conference

The Advisory Conference adopted several recommendations in preparation of the meeting of the Board of Governors scheduled for 1946, which was charged with revising the Constitution of the League and deciding on a programme of action for the coming years.

Several of these recommendations were of interest to the ICRC and reflected items on the agenda of the meeting of National Red Cross Societies planned for 1946. For instance, Recommendation IV provided that the League would intervene on behalf of the National Societies of occupied territories and stated that the terms and conditions of such interventions would be examined in depth by, and be subject to consultation with, the ICRC. Recommendation V proposed that the League should be assigned the “role of guardian of the integrity of its members and protector of its interests”, a role which until then had been played by the ICRC. Recommendation VII suggested that “the Board of Governors, in consultation with the International Committee, should formulate basic principles intended to inspire the Statutes of Member Societies”.27

The report by the delegates of the Czechoslovak and Italian Red Cross Societies on the hardship suffered by their respective National Societies before and during the Second World War gave rise to a debate on the independence of National Societies and their situation in occupied territories. A lively exchange of opinions followed, in the course of which reference was made to the ICRC on several occasions. The ICRC’s representatives at the Advisory Conference reminded participants of the organization’s position on the recognition of National Societies, adopted during the war, and of the reasons why it had opted for this approach. In the ICRC’s view, to best serve the interests of the victims and be able to continue to come to their aid, the Red Cross had to abstain from becoming involved in politics in any way.28

26 Minutes of the meetings of the Bureau held on 6 June, 11 July, 27 July and 30 October 1945 and on 18 April 1946, and of the plenary meeting of the ICRC held on 22 June 1945 – ICRC Archives, A PV.


28 Advisory Conference, Proceedings I, op. cit., pp. 34 ff. and 110 ff. Note by R.-M. Frick-Cramer of 17 October 1945 on the session of the Advisory Conference held on the same day, and note by L. Odier of 24 October 1945 on the session of 20 October 1945 – ICRC Archives, B CR 64-31. It should be noted in this regard that, to the authors’ knowledge, the ICRC never, either before or during the war, approached the German Red Cross to protest against its failure to respect the principles of the Red Cross. The German National Society was run by members of the Nazi hierarchy, including Reichsarzt Ernst Grawitz, who was one of the physicians carrying most of the responsibility for the pseudo-medical experiments conducted on concentration camp inmates and who
Lastly, at the suggestion of the Yugoslav Red Cross, a telegram was dispatched to the Soviet Alliance of Red Cross and Red Crescent Societies, expressing regret at the absence of its delegates in Geneva and requesting that representatives be sent to the upcoming meeting of the Board of Governors in Paris.

The meeting of the Board of Governors of 1945

The Advisory Conference was followed by a brief meeting of the Board Governors in Paris from 14 to 16 November 1945. The main objectives of the meeting were to approve the budget of the League for the year 1946 and to elect a chairman of the Board, following the death of Chairman Norman H. Davis in July 1944. To allow the National Societies sufficient time to study the recommendations adopted by the Advisory Conference, examination of the recommendation was postponed until the following session of the Board of Governors, to be held in 1946.

For the fifth consecutive period since the founding of the League in 1919, the president of the American Red Cross, Mr Basil O’Connor, was elected chairman.

The new chairman of the League and the president ad interim of the ICRC met several times on the margins of the Board of Governors meeting. On one of these occasions Basil O’Connor proposed that the Joint Commission should continue its activity on the current basis for as long as it would be of use. The suggestion having met with the approval of Max Huber, the chairman of the League informed the Board of Governors, as follows:

Earlier today I had the pleasure of taking lunch in the company of Professor Max Huber, which afforded us an opportunity to talk about the existence and work of the Joint Relief Commission. We believe that the Joint Relief Commission (...) should not to be dissolved at this time, and that it would be able to pursue its task if it was adapted to changes in circumstances. If there are no objections, I should think that you will agree with us that the Joint Relief Commission should continue its work for the foreseeable future. (Applause).

Max Huber, for his part, declared being “very happy that, for now, the Joint Commission should pursue its work as in the past and that its existence should be defined by actual events; it will not be dissolved for the time being, and will continue to pursue its work for as long as it will be of real service.”

The ICRC therefore considered the matter settled until further notice.

29 In the interim Dr J. de Muralt, president of the Swiss Red Cross, had been appointed president in-office.
30 Minutes of the meeting of the Bureau held on 22 November 1945 – ICRC Archives, A PV.
The Board of Governors meeting of 1946

Some 50 National Societies attended the meeting of the League’s Board of Governors, held in Oxford from 8 to 20 July 1946. The Soviet Alliance of Red Cross and Red Crescent Societies, which had not travelled to Paris in November 1945, was represented and took an active part in the deliberations. The ICRC was represented by its president ad interim, Max Huber, accompanied by two directors, Roger Gallopin and Georges Dunand.

The tendency to want to strengthen the League at the detriment of the ICRC, first seen at the Advisory Conference of October 1945, was confirmed. In his opening statement Basil O’Connor proposed revising the Constitution of the League “so that it will be consistent with present conditions”. “To accomplish this,” he continued, “we must define the responsibilities of the League and of the International Red Cross Committee. We must decide which programs are a responsibility of the League in which the International Red Cross can aid, and which programs are a responsibility of the International Red Cross Committee in which the League in turn can aid. In considering this subject, we may feel that the time has now come for the League to decide whether it should become the Red Cross Agency to take responsibility for all relief action – particularly in time of peace. Certainly, no such step should be contemplated without the collaboration of the International Red Cross Committee.”

Regarding the revision of the Constitution of the League, the prevailing current of opinion was reflected in the deletion of all references to the ICRC from Articles 1 and 4 concerning the admission of new members, which was now no longer dependent on prior recognition by the ICRC. The Alliance justified this deletion by the fact that the ICRC was not an international body and that all Committee members were nationals of one country. The idea was even mooted that the League should be placed in charge of recognizing National Societies. However, no decision could be taken on this item, as the League was not competent to do so: only the International Conference of the Red Cross, with the agreement of the ICRC, was able to amend the mandate entrusted to the ICRC by the Fourth International Conference (Karlsruhe, 1887). Article 4 confirmed that the League should take action if an occupying power dissolved a National Society, interfered in its administration, impeded it in the pursuit of its aims or replaced it by a puppet Society, or if a National Society contravened the Fundamental Principles of the Red Cross, either at its own initiative or under pressure from the government of its country.

The above initiatives also affected the activity of the Joint Relief Commission. Despite the statements made in November 1945 by the chairman of the League

and the president of the ICRC in Paris in November 1945, the Board of Governors decided not only to dissolve the Commission within the coming six months, but also that the League alone should henceforth carry out what it called Red Cross relief operations. In doing so it confirmed its wish for the League to coordinate all National Society activities, without exception. The Resolution by the Board of Governors read as follows:

Resolves:

1. That all Red Cross relief where possible be channelled from one Red Cross Society to another.

2. That the League instruct its delegates to secure agreement or take such proper steps as shall be necessary so:

   a) That the League and the International Committee of the Red Cross continue their joint relief action for a period of six months, after which the Joint Relief Commission of the International Red Cross be liquidated and responsibility continued by the League directly.

   b) That the Joint Relief Commission restrict its relief action to relief initiated by Red Cross organizations.

   c) That the Joint Relief Commission terminate immediately its present activities in which it serves as the purchasing and transporting agency for non-Red Cross organizations.

   d) That the Executive Committee of the Joint Relief Commission be abolished immediately and the direction of the Commission be achieved by a Council composed of two representatives of the International Committee of the Red Cross and two representatives of the League.

Subsequent discussions between the ICRC and the American Red Cross revealed that the American National Society, upon arriving at Oxford, had initially proposed that the Joint Commission should continue its work for at least one more year but should instantly stop delivering relief supplies other than those sent by National Societies. The Soviet and Danish Red Cross Societies requested that the Joint Commission cease its activities immediately. As a compromise, the American Red Cross had suggested that the Commission be gradually wound up.

The Board of Governors adopted further resolutions concerning areas of close interest to the ICRC without actually mentioning the organization (for example, Resolution 2 on the elaboration of a new convention on aid to civilian populations of occupied nations, Resolution 8 on relief to displaced persons or Resolution 11 on

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34 Note by R. Gallopin of 19 July 1946, cited above.
36 Minutes of the meetings of the Bureau held on 3 October 1946 and 26 February 1948 – ICRC Archives, A PV.
In Resolution 12 the Board of Governors further adopted a “statement of basic principles”, which to the existing four Fundamental Principles of the Red Cross, namely impartiality, political, religious and economic independence, the universality of the Red Cross Movement and the equality of its members, “added thirteen others, in which the aims of the Red Cross, its fundamental principles and mere rules of procedure were jumbled together”.

On 15 July the ICRC’s representatives took advantage of the presence of an Alliance delegation at Oxford to hold a meeting to discuss matters of general interest. Having expressed his regret at the fact that relations between the two organizations had been broken off during the war, the president of the ICRC enquired after the reasons. The Soviet Union’s grievances, as stated by the Alliance’s President, Professor Kolesnikoff, were as follows:

- The ICRC’s reports on camp visits by its delegates in Germany, published in the International Review of the Red Cross, did not correspond to reality. Even if the ICRC had not realized what was happening at the time, it should have taken a stand when the truth began to emerge.

- The ICRC’s manifest fondness for Germany, as evident from the appeal sent by the ICRC to the belligerent governments on 30 December 1943; the Soviet Union considered this appeal to contain an allusion to the Kharkov trial.

- The fact that the ICRC’s love for Germany continued to be expressed by its special attention to German prisoners of war.

- In general, by not protesting against violations of the law of war committed by the Germans, and in particular the fate of prisoners of war captured on the Eastern Front, the ICRC had demonstrated to the Soviet Union that it was not entirely impartial.

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38 *Ibid., p. 41.*


41 First trial of German war criminals conducted by the Soviets at Kharkov in December 1943. In reality, the ICRC, alerted by the American authorities and its delegates in Japan, issued the appeal to draw attention to the fact that Japan had committed for trial American aviators accused of having bombed Japanese towns, acts that were punishable by death. The ICRC had decided to inform all belligerent parties of its views concerning reprisals against prisoners of war.

42 On the fate of prisoners of war captured on the Eastern European front, see footnote 80, p. 25 above.
Since it was not possible during the meeting to give detailed replies backed up by hard evidence, the ICRC’s representatives invited the Alliance to send a delegation to Geneva to consult the relevant documents.\(^43\)

In his speech delivered at the closing session of the Board of Governors, the president of the ICRC noted that several of the resolutions adopted by the Board cut existing ties between the League and the ICRC. Nevertheless, he reaffirmed the ICRC’s continued availability to provide its services and to collaborate with the National Societies and the League and, in general, with all relief societies and governments in order to carry out Red Cross activities. Referring to the Red Cross meeting due to be opened in Geneva six days later, he expressed the hope that the Alliance would be represented and added: “If that is not possible I take upon myself to invite it cordially to Geneva as soon as possible so that a delegation may be sent to which we shall be happy to supply all information and submit all documents which will enable it to formulate a decisive judgment.”\(^44\)

The Alliance did not reply to this invitation, which was renewed in a letter dated 31 July 1946.\(^45\)

The ICRC left the meeting of the Board of Governors with the impression that its situation was similar to the one at the end of the First World War, its position within the Movement once again being called into question. “It was particularly disagreeable,” wrote one of the ICRC’s directors, “to have to attend debates during which the ICRC was attacked, without being able to intervene and defend it, and to come up against reservations every time a decision was brought to the floor that had the potential to affect the Statutes of the International Red Cross (...). It was evident that most National Society delegates were struggling to grasp that they were gathered at a meeting of the League and not an International Conference of the Red Cross, the only body competent to take decisions on the structure of the International Red Cross and the two international bodies constituting it.”\(^46\)

As to the reasons for the decision to dissolve the Joint Commission, the ICRC considered that it was due to the influence wielded by the Alliance, which sought to put as much as distance as possible between the League and the ICRC, and to the fact that the American Red Cross, very active in providing relief to civilian populations in Europe, was afraid of losing some of its prestige to the ICRC. A further reason was thought to lie in the declaration made by Basil O’Connor at the Oxford meeting, in which he had suggested that the League should assume responsibility for all assistance activities, especially in time of peace.

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\(^{43}\) Note by R. Gallopin dated 19 July 1946, cited above, and minutes of the meeting of the Bureau held on 25 July 1946 – ICRC Archives, A PV.


\(^{45}\) Letter of 31 July 1946 from M. Huber to Prof. Kolesnikoff – ICRC Archives, B CR 64-32.

\(^{46}\) Note by R. Gallopin of 19 July 1946, cited above.
The ICRC delegate in Berlin, who was in contact with the Soviet authorities, offered a different interpretation of the Alliance’s attitude. In his view it reflected the Soviet Union’s desire to limit American influence in Europe as much as possible. Since the Joint Commission was a joint body of the League and the ICRC and American influence was exerted predominantly through the League, the Alliance delegates at Oxford had seized the opportunity to do away with a body likely to be dominated by the Americans. Therefore, the Alliance’s call for the immediate winding down of the Commission was not directed against the ICRC but against the strongest National Society in the League.

As to the reproach that the ICRC was using the red cross emblem to deliver relief supplies from donors other than the National Societies, the ICRC recalled that that was what it had always done. It had a duty to assist the victims of war and could not imagine refusing to deliver donations simply because they originated from other relief bodies or governments. What difference was there between the relief goods handed over to the ICRC during the Second World War by governments and non-Red-Cross organizations for delivery to prisoners of war, to which the ICRC affixed the red cross emblem, and the relief supplies received by the Joint Commission and forwarded by the Red Cross, thereby conferring upon these items a “red cross” quality? Furthermore, by deciding from then on to work only through the National Societies, the League was casting doubt over relief activities for the German population, as there was no longer a German Red Cross Society. The ICRC therefore wondered whether the proposed measure was not due to a desire to end a system that had fallen out of favour rather than the wish to apply a new principle.47

As it turned out, the League subsequently aligned itself with the ICRC’s position on the origins and forwarding of relief goods.48

The Preliminary Conference of Red Cross Societies

In keeping with the wishes of the National Societies, the Preliminary Conference of National Red Cross Societies for the study of the Conventions and of various Problems relative to the Red Cross gathered in Geneva from 26 July to 3 August 1946, a few days after the meeting of the Board of Governors.

Prior to the Conference the ICRC had consulted all National Societies on the draft agenda, adopted on 22 October 1945, and had provided with them with the preparatory documents and supplementary contributions from a number of Societies.49

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47 Minutes of the meetings of the Bureau held on 25 July and 29 August 1946 – ICRC Archives, A PV.


Regarding matters specific to the Red Cross, Count Folke Bernadotte, president of the Swedish Red Cross, had expressed the wish to discuss the organization of the International Red Cross and the role of the ICRC, with a view to strengthening the authority of the ICRC as the guardian of the Conventions, by appointing to the International Committee representatives of National Societies from neutral countries other than Switzerland. His proposal was followed by an exchange of correspondence between Count Bernadotte and Max Huber, in the course of which Max Huber stated his willingness to include this item in the agenda of the Preliminary Conference. As he had indicated at a meeting of the Bureau, refusing to put this matter to debate during a meeting convened by the ICRC ran the risk of it being put on the agenda of the League’s Board of Governors meeting. However, when he informed Count Bernadotte that he agreed to the proposal, Max Huber reminded him that only the International Conference of the Red Cross was competent to revise the Statutes of the International Red Cross and that doing so would be subject to prior negotiations involving the National Societies, the ICRC and the League. Referring to Article 251 of said Statutes, he further recalled that the Statutes of the ICRC could not be modified without the approval of the organization. He concluded that the Preliminary Conference was not qualified to revise the Statutes of the two organizations, nor those of the International Red Cross. The Preliminary Conference was able to decide only on a procedure to examine the matter, should it deem this useful. Count Bernadotte agreed with these arguments and stated that he would suggest that a special commission be constituted to study the question ahead of the next International Conference of the Red Cross.52

More than 140 delegates representing 45 National Red Cross Societies took part in the Preliminary Conference. The Alliance did not travel to Geneva, in spite of

50 After several years devoted to working for the Red Cross, Count Bernadotte was appointed president of the Swedish Red Cross on 1 January 1946. During the Second World War, in his capacity as vice-president of the Swedish National Society, he organized the exchange of some 10,000 severely wounded and seriously ill prisoners of war between the United Kingdom and Germany in the course of two operations that took place in the neutral seaport of Gothenburg. Near the end of the war he negotiated with Heinrich Himmler and his right hand man, Walter Schellenberg, to group Scandinavian concentration camp inmates in a single location and then evacuate them to Denmark and Sweden. Starting in March 1945 the operation was carried out in two stages, using white buses marked with the red cross emblem. It also benefited the inmates of the Ravensbrück concentration camp and saved the lives of over 20,000 people, including several thousand Jews. From July 1946 Count Bernadotte was chairman of the Standing Commission of the International Conference of the Red Cross.

51 “It may not, however, modify the Statutes of the International Committee of the Red Cross or the Constitution of the League of Red Cross Societies. Similarly, the International Committee of the Red Cross and the League of Red Cross Societies shall take no decisions contrary to the Statutes of the International Red Cross or to the Resolutions of the Conference, nor any decision contrary to the agreements concluded between them and formally endorsed by the Conference.”

52 Letters of 15 March, 18 April and 31 May 1946 from Count Bernadotte to the ICRC, and replies by M. Huber of 10 April, 9 May and 4 July 1946 – ICRC Archives, B CR 241/I and 241/II. Minutes of the meeting of the Bureau held on 25 April 1946 – ICRC Archives, A PV.
contacts established with the ICRC delegation at Oxford. The League of Red Cross Societies was represented by its chairman, Basil O’Connor, among others.

In his inaugural address, most of which was devoted to the revision of the Geneva Conventions, Max Huber, president ad interim of the ICRC, introduced the items on the agenda of the Preliminary Conference concerned with the Red Cross Movement:

This Conference will also be examining a number of specific problems encountered by the Red Cross in time of war, others having already been discussed in depth on the occasion of the most recent meeting of the Board of Governors. However, all of these problems are interconnected, since whether the Red Cross is active in time of peace or in time of war, it shall always remain the Red Cross, and it should therefore be inspired in all circumstances by one fundamental concept.

He went on to recall that the fundamental principle at the heart of the Red Cross and the original Geneva Convention was that “the wounded and sick, whether they be fellow countrymen, allies or adversaries, have the right to equal treatment: charity shall be extended to enemy combatants who are suffering and hors de combat. (...) Respect for the human person regardless of affinity and irrespective of nationality, race, political affiliation or religion, are the heart and soul of the Red Cross.” He emphasized that “the more the rights of a society organized as a State increase at the expense of the rights of the individual – and so-called ‘total war’ is the extreme form of this – the more difficult it becomes to ensure that the principles of humanity calling for our concern with a suffering fellow human (...) prevail. (...) The ideological nature of the conflicts of our era is partly responsible for the diminishing value of the human person. The particular mentality resulting from this attitude means that the impartiality of the Red Cross (...) is often poorly understood, as is, incidentally, the neutrality of States (...). In the completion of its tasks the Red Cross is often powerfully assisted by States’ reciprocal interests in protecting their nationals, which interests drive them to ensure that this protection is enshrined in conventions. However, the Red Cross must also act where treaties are absent and where individuals are not supported by any government and, so to speak, find themselves in a void.”

Max Huber’s speech reflected the difficulties facing the ICRC, whose impartiality was called into question by communist-aligned countries at the same time as it was faced with incomprehension among Western nations over its activities for German prisoners of war. The speech also alluded to the loss of confidence in Swiss neutrality at the close of the war, at a time when the ICRC believed that Switzerland’s perpetual neutrality was the very foundation of its role of neutral intermediary.

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53 RICR, No. 332, August 1946, Conférence préliminaire, discours du président a.i. du Comité international de la Croix-Rouge, pp. 644–645.

54 In this respect see in particular the minutes of the plenary meeting of the ICRC of 4 July 1946 – ICRC Archives, A PV. Since then, the ICRC has distanced itself from Swiss neutrality. It considers that its acceptance as an organization depends more on the fact that it is composed
The main features of the Conference were the Yugoslav Red Cross's attempt to see the ICRC stripped of its mandate to the benefit of the League, and the proposal of Count Bernadotte.

**The attitude of the Yugoslav Red Cross**

As early as the first plenary session the Yugoslav Red Cross took the floor and, in a speech filled with expressions better known from political propaganda, denied that the Preliminary Conference was competent to take decisions on the problems of the Red Cross. In support of this statement it alleged that relations between the League and the ICRC had been clarified sufficiently at the recent meeting of the Board of Governors at Oxford, which had decided that “the League should become a powerful international organization that would be able to ensure application of the principles of the Red Cross and strive to achieve its ideals (...). Nonetheless, these principles of the Conference had not found sufficient echo in the world press, so much so that we may ask ourselves whether there will not always be those who prefer that peace should not prevail among different peoples (...). Megalomania, national egoism and jingoism are the apparent enemies of the League of Red Cross Societies (...) in which we have special trust because it is an international organization (...). For all these reasons, and to be faithful to the decision taken in Oxford and prevent confusion from reigning at this Conference, our delegation hereby declares the League of Red Cross Societies to be the only body competent to examine any questions pertaining to the Red Cross which, according to the Statutes adopted at Oxford, fall within its competence, and to take decisions on these matters. Our delegation considers that the present Conference, convened by the International Committee of the Red Cross, is not competent to take decisions on all problems of the Red Cross and therefore further is of the opinion that the present Conference is a private gathering held for information purposes only.”

The Yugoslav Red Cross did, however, state that it was willing to collaborate on the drafting of a new humanitarian convention applicable to all victims.

Having recalled the process that led up to the Preliminary Conference and the fact that, according to its Statutes, the International Conference of the Red Cross was the supreme deliberative body for deciding on the distribution of the respective competencies of the ICRC and the League, Max Huber, who presided the plenary session,
proposed to submit to a vote the question of the Preliminary Conference’s competence. However, a consensus was reached against voting, and the Yugoslav Red Cross modified its position, declaring that it had merely wished to prevent the Conference from taking decisions that might be in conflict with those of the Oxford meeting and further reminding participants that “one great nation – the Soviet Union – is not represented at the Conference.”

During the debates that followed the Yugoslav Red Cross again reproached the ICRC for having maintained contact with the puppet National Society set up by the Germans after the occupation of Yugoslavia, for having done nothing to aid partisan fighters, for not having denounced violations of the Conventions by “the German, Italian and Spanish fascists” – even before the Second World War – and, consequently, for not having defended the application of the Conventions. Proceeding from this observation it proposed that a Special Commission of National Societies be set up to take part in the drafting of the future Geneva Convention or Conventions to ensure that the experiences of the National Societies most directly concerned were taken into account.

The ICRC rejected these criticisms both in fact, by providing information on the cases cited, and in principle, by reminding the Conference of both its mandate, which was to aid the victims of war and not to act as judge, and its policy with regard to complaints and alleged or actual violations of the Conventions.

The proposal of the Yugoslav Red Cross was supported by several delegations, including the American Red Cross, which expressed the wish that the National Red Cross Societies should share the responsibility of drafting the conventions and that the proposed Special Commission should be appointed by the League’s Executive Committee.

The matter having been discussed, the following text was adopted:

The Conference decides to appoint a Commission which shall remain in close touch with the International Committee of the Red Cross, and to which the latter shall submit the texts it has drafted, before sending them to other National Societies. This Commission shall be appointed by the Executive Committee of the League.

56 Ibid., p. 28.
The proposal by Count Bernadotte

During discussions on the role of the ICRC and its financing, Count Bernadotte began by paying homage to the work carried out by the ICRC during the Second World War and continued as follows:

Indeed, I believe that the results obtained in these circumstances could be and will be infinitely greater if the Committee had even greater authority, by virtue of the simple fact of directly representing, in time of peace, the Red Cross Societies of countries other than Switzerland and in time of war the Red Cross of all neutral countries.

The Committee is composed exclusively of Swiss citizens, who are recruited by a process called cooptation and who themselves designate their successors.

Would it not be possible to apply a more inclusive and modern way of recruitment which, naturally, would strengthen the authority of the Committee? It goes without saying that the Committee’s headquarters and its secretariat should remain in Switzerland, even Geneva. Perhaps even its president should continue to be a Swiss citizen. However, at least some of its members could be nationals of other countries and be elected, for instance, by the International Red Cross, that is to say at the Conferences. And, in the event of war – as I have suggested above – all members belonging to belligerent countries could be replaced by members who are citizens of neutral countries, if any.

He went on to say that “no humanitarian law will be of any value in time of war if compliance is not monitored and violations are not effectively prosecuted. Since the task of monitoring compliance could lie entirely with the ICRC, it is, in my opinion, absolutely essentially to place the ICRC in as strong and representative a position as possible.”

In conclusion, Count Bernadotte suggested that a commission be appointed to study this question in anticipation of the next International Conference of the Red Cross.59

The debate that followed was extensive. A half-dozen National Red Cross Societies stated that they were against a reform of the structure of the ICRC and in favour of maintaining the status quo. They included the Canadian Red Cross which, having stressed the value of the experience acquired by the ICRC during two world wars, drew the participants’ attention to the lack of stability inherent in a body of the kind proposed by Count Bernadotte: “If a Commission were to be constituted which represented a large number of countries neutral in the event of war, we would end up with an organization like a kaleidoscope, whose composition changes all the time. For who can say that a country that is neutral today will still be neutral tomorrow?” The speaker continued: “It would seem to me that we will have to take the risk of counting on the fact that a country like Switzerland will be able to stay out of conflict.”60

60 Conférence préliminaire, Procès-verbaux, op. cit., Vol. IV, p. 79.
representative of the Swiss Red Cross presented the argument of efficiency: “In time of peace it would be quite easy to change the current status, to expand the International Committee of the Red Cross. Doing so would be a simple question of procedure; but where I see danger for the work of the Red Cross as a whole is precisely at the moment when war breaks out, when it would be essential to have an organization that is able to start practical work immediately (...) If we accept this proposal we would not have that kind of body at our disposal because it would be precisely at that time that changes would take place.”

However, a majority of National Societies, including the Polish and Yugoslav Red Cross Societies, were of the opinion that the status quo should not be maintained, considering that the ICRC had not always met its obligations towards the victims in Eastern European countries occupied by Germany during the war. The Bulgarian Red Cross, having recalled the absence of the Alliance, reiterated that the efficacy of the International Red Cross depended to a large part on countries’ trust in these organizations. The representative of the American Red Cross recalled that it had been agreed at Oxford that the work of the Red Cross should be “in harmony with the events of the day”, and added that “it has been insinuated that this body was not strictly neutral. No evidence has been presented in this regard, but the accusation has been made. I myself could criticize some of the actions of the International Committee. But all of these questions should be examined calmly, just as we should look into whether in some instances there might not be a risk of conflict with the Statutes of the League.” Several delegations in their speeches likewise alluded to the possibility that there would be no more neutral countries in the event of a third world war or that Swiss neutrality might not necessarily be respected. Lastly, the Yugoslav Red Cross suggested that the study group proposed by Count Bernadotte should function as a commission of inquiry.

Through its president, the ICRC let it be known that it joined the proposal of Count Bernadotte, provided the commission were a study group looking into the ICRC’s activities with a view to strengthening its means of action, and not a commission of inquiry. It further noted that an assessment of the whole of ICRC activities during the war was possible only on the basis of the general report the ICRC was in the process of preparing for the 17th International Conference of the Red Cross. As far as the criticisms were concerned, the ICRC recalled that the Alliance had been invited to attend and extended this invitation to all National Societies wishing to come forward and present their specific grievances. The ICRC president further pointed out that, contrary to prevailing ideas, the ICRC did not have any of the alleged possibilities for “intervening”. Lastly, he stressed that it was essential to have a neutral intermediary able to talk to all the parties to a conflict.

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61 Ibid., p. 83.
62 Ibid., p. 87.
63 Ibid., pp. 92–93 and 105.
64 Ibid., pp. 95–100 and 105–106.
The idea of constituting a commission having been approved in principle, the
debate turned to the composition of the commission and the body entrusted with
the task of nominating it. Eventually the Preliminary Conference agreed on the
following text:

The Standing Committee of the International Conference is invited to nominate a
Commission for the purpose of studying methods to reinforce the efficacy of the work
of the International Committee of the Red Cross.

The results of this Commission’s work shall be communicated to all National Red Cross
Societies in due time, so that all delegates to the next International Red Cross Conference
may have a perfect view of the situation, when it is discussed at the said Conference.

The Conference adopts the following composition of the said Committee, which shall
include twelve members, namely:

Eight representatives of National Societies, representing all parts of the world;
Two representatives of the International Committee of the Red Cross;
Two representatives of the League of Red Cross Societies.

The Conference endorses the principle that a Red Crescent Society shall be represented
in this Commission.65

Following a report on the serious financial difficulties facing the ICRC,66 the
Preliminary Conference invited the National Societies to make an extraordi-
nary contribution to the ICRC in the amount of 15 million Swiss francs, of which
10 million should be made available before the end of 1947 to cover the deficit of
its war work and allow it to pursue its traditional activities.67 This gesture, greatly
appreciated by the ICRC, was a source of encouragement amid the attacks against it.68

Other specific aspects of the Red Cross in time of war

Regarding the situation of National Societies in time of war, the Preliminary
Conference aligned itself with the resolution voted at Oxford (Article 4 of the
Constitution of the League) providing for intervention by the Executive Committee
of the League should an occupying power dissolve a National Society or interfere
with its administration. However, noting that the resolution contained no provisions

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65 Report on the Work of the Preliminary Conference of National Red Cross Societies for the study of the
Conventions and of various Problems relative to the Red Cross, op. cit., pp. 125–126.
67 Report on the Work of the Preliminary Conference of National Red Cross Societies for the study of the
Conventions and of various Problems relative to the Red Cross, op. cit., pp. 129–130, and Conférence
International Conference of the Red Cross, see p. 10 above.
68 Minutes of the plenary meeting of the ICRC held on 8 August 1946 – ICRC Archives, A PV.
on how to safeguard funds belonging to these National Societies and did not foresee the case where the Executive Committee – composed of twelve members belonging to different nations – might, in time of war, be incapable of action, the Preliminary Conference completed the resolution as appropriate: on the one hand it drew the League’s attention to the need to study, in cooperation with the ICRC, the best means of safeguarding the funds belonging to the National Societies in occupied countries. Further, it recommended that the ICRC, either independently or in consultation with those members of the League who were accessible, should take all steps considered possible and useful in order to respond to the appeal of a National Society in an occupied country.69

The Preliminary Conference approved the course of action followed by the ICRC in the matter of the constitution and recognition of National Red Cross Societies in time of war. Referring to the debates of the Board of Governors at Oxford, the president of the ICRC stated that it was up to the next International Conference of the Red Cross to decide whether, in principle, it wished to maintain the ICRC’s mandate to recognize National Societies, transfer it to the League or make it a function to be carried out jointly by the two organizations. As to the conditions of recognition, drafted by the ICRC at the end of the nineteenth century, the Preliminary Conference suggested that they be studied by a joint commission of the ICRC and the League in order to adapt them to present circumstances.70

The Preliminary Conference was of the opinion that the ICRC should continue to undertake the transmission of protests of National Societies against alleged violations of the humanitarian conventions, approving the preliminary conditions expressed by the ICRC in its report.71

The Standing Commission, which met during the Conference, accepted a proposal by the Swedish Red Cross to host the 17th International Conference of the Red Cross in Stockholm at the end of August 1948.

After the Preliminary Conference Max Huber noted the delicate nature of the position of the ICRC, which was threatened with a split between those National Societies who were intent on supporting the ICRC and those decided on giving greater importance to the League.72

At the time the ICRC feared that the Special Commission, to which it had agreed to submit its draft conventions, would further complicate its work. In the end this turned out not to be the case: the Commission confined itself to approving, with the exception of a few minor modifications, the drafts prepared by the ICRC subsequent to the Conference of Government Experts.73

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70 Ibid., pp. 133–136.
71 Ibid., pp. 136 ff. See p. 39 above.
72 Minutes of the plenary meeting of the ICRC held on 8 August 1946 – ICRC Archives, A PV.
73 See p. 222.
In addition to a summary report containing the various resolutions adopted by the Preliminary Conference and a more comprehensive analytical report, the ICRC forwarded to all National Red Cross Societies the full proceedings of the plenary session of the Conference to avoid being accused in years to come of having attempted to cover up the attacks on the organization.\footnote{Minutes of the meeting of the Bureau held on 20 September 1946 and the annex to the plenary meeting of the ICRC held on 10 October 1946 – ICRC Archives, A PV.}

**The Special Study Commission for reinforcing the work of the ICRC**

Designating the National Societies that would form part of the Special Commission to study ways and means of reinforcing the efficacy of the work of the ICRC turned out to be a delicate geopolitical exercise. The Standing Commission, which had been entrusted with this task by the Advisory Conference, had nominated the National Societies of Brazil, China, Czechoslovakia, Egypt, France, Great Britain, Sweden and the Soviet Union. The ICRC and the League were also invited to send two representatives each.

The Special Study Commission met three times, twice in Paris, in November 1946 and May 1947, and once in Geneva, in March 1948.

With the exception of the Soviet Alliance of Red Cross and Red Crescent Societies, which did not send a representative, all the designated National Societies attended the meetings.\footnote{At the meeting of the Executive Committee of the League, held in Paris from 21 to 23 May 1947, which is to say the day following the second meeting of the Special Study Commission, the Alliance delegate stated that, in his view, the matter of reinforcing the ICRC should not be discussed by the League, since this item had been presented without the agreement or consent of the National Societies. The Executive Committee therefore should concentrate on strengthening the work of the League and not that of the ICRC. See also the 17th International Conference of the Red Cross, Rapport de la Commission special charge d’étudier les moyens de renforcer l’efficacité de l’action du CICR, Geneva, June 1948 – ICRC Archives, B CR 247-8.} The League was represented by its chairman, Basil O’Connor, and Dr Pierre Depage, president of the Belgian Red Cross. Although not a member of the Commission, the American Red Cross was represented *de facto*, the chairman of the League also being the president of the American Red Cross.

**The position of the ICRC**

A minority of ICRC members was of the opinion that the institution should abstain from participating in the Special Study Commission, for fear of being put in the dock and of being bound by any decisions the Commission might take. Others, including Max Huber, objected, arguing that the ICRC had to participate in the Commission if it wished to clarify its role and activities during the war and avoid being faced with unacceptable proposals. The ICRC eventually decided in favour of participation. To remain free, however, it considered it preferable to be represented by...
two director-delegates, Roger Gallopin and Jean Pictet, who would not be authorized to enter into any commitments on behalf of the ICRC and would not take part in the voting. Furthermore, should the Commission turn into a commission of inquiry, contrary to the mandate conferred upon it, the ICRC’s delegates were to withdraw from the debates after having given their reasons for doing so.76

The ICRC further noted that the fact of being composed exclusively of Swiss nationals – a source of contention on several occasions in the past – had proved its worth. It therefore reaffirmed that it would stand by this principle to better be able to carry out its fundamental task: as a neutral intermediary, come to the aid of all the victims of armed conflict. In the ICRC’s opinion, being able to rely on a State whose neutrality was recognized and guaranteed by international treaties and in which neutrality was also the sole principle of foreign policy, greatly facilitated its mission. Experience had shown that international bodies tended not to function normally in time of widespread conflict. Notable examples included the League of Red Cross Societies and the League of Nations, both of which had been forced to put their activities on hold during the Second World War. Further, a rapid response, essential in emergency situations, could be ensured only if a limited number of individuals were able to meet at any moment and without having to refer to a body on which they depend in one way or another. Even though the members of the International Committee were all Swiss, they did not represent Switzerland. Making representatives of National Societies of neutral countries members of the International Committee might be useful but could also turn out to do more harm than good. Switzerland’s perpetual neutrality cannot be compared with the occasional neutrality of other nations. The Second World War had demonstrated that it was quite possible for the number of neutral countries, and their degree of neutrality, to fluctuate considerably in the course of a conflict.77 The neutrality of a body composed of citizens of several neutral States risked being measured by the yardstick of the State whose neutrality was contested the most. In any event, transforming the ICRC into an international organization would offer no guarantees if ever Swiss neutrality were not to be respected; in that event, conditions would become so unpredictable that the existing structures would have to be rebuilt from scratch.

The ICRC further considered that its alleged failures and shortcomings during the war were not due to its composition or a lack of goodwill on its part but the result of opposition from certain governments. Other humanitarian organizations, the National Societies of neutral States and the protecting powers had been able to do no better. Especially National Societies had not always felt compelled to support the ICRC’s efforts by approaching their respective governments. It was therefore misleading to claim that an “international” ICRC would carry more weight.

76 Minutes of the meetings of the Bureau held on 4 July, 25 July and 8 August 1946 and of the plenary meetings of the ICRC held on 3 October and 21 October 1946 – ICRC Archives, A PV.
77 M. Huber cited the cases of Portugal, which had handed over military bases to the belligerents, and Sweden, which had allowed troops to be transported across its territory.
That having been said, the ICRC admitted that, under the pressure of events, it had probably not sufficiently informed National Societies of its activities during the war and that it had to pay more attention to this aspect. As a concession, the ICRC was willing to hand over to other bodies some of the tasks entrusted to it (such as the transmission of complaints relating to violations of international law), which, because of their political implications, were poorly compatible with its basic mission, or to carry out other tasks, such as the recognition of National Societies, jointly with such bodies. In this respect it was looking to expand the functions and enlarge the membership of the Standing Commission, provided that the means were found to ensure that the Commission would be able to continue carrying out its duties in time of war.\footnote{Note of 17 September 1946 from M. Huber to the members of the ICRC. Note of 19 November 1946 and instructions of 21 November 1946 from M. Huber to the ICRC delegation to the Commission to study ways and means of reinforcing the efficacy of the work of the ICRC – Paris, 26 and 27 November 1946. Observations regarding the draft statutes of the International Red Cross drawn up by Dr Depage, Document CP 273 of 10 March 1948 – ICRC Archives, B CR 247-1, 247-9 and 247-10. Minutes of the plenary meeting of the ICRC held on 21 October 1946 and the meetings of the Bureau held on 8 May 1947 and 21 April 1948 – ICRC Archives, A PV.}

**The first meeting of the Special Study Commission**

At its first meeting, held in Paris on 26 and 27 November 1946, Dr Pierre Depage was elected chairman of the Special Study Commission. He offered the position of vice-chairman to one of the two ICRC representatives, who declined, citing the ICRC’s official position on the Commission. A bureau was set up, composed of the chairman and two technical secretaries, one to be designated by the ICRC and one by the League.

Around a dozen proposals were submitted which approached the matter of strengthening the efficacy of the ICRC from many different angles, ranging from the facilities governments should grant the ICRC in time of war to the reorganization of the International Red Cross.\footnote{See also the letter of 12 March 1947 sent by the bureau of the Special Study Commission to all National Red Cross Societies, and the annex to said letter – ICRC Archives, B CR 247-1.}

As at the meeting of the Board of Governors at Oxford, the representative of the Czechoslovak Red Cross again pointed out that during the Second World War the ICRC had been unable to send a delegate to German-occupied regions of Czechoslovakia since it had not been granted authorization and Switzerland had been encircled by Germany. Following his statement, a resolution was adopted under which it would be possible for the headquarters of the ICRC to be transferred, if necessary in time of war, to a neutral country accessible to the belligerent parties, and under which States undertook to facilitate this transfer.
The most important proposal, however, was that submitted by Count Bernadotte:

Between the two opposing options of organizing the International Red Cross (maintaining the status quo or merging the International Committee and the League), both of which would seem equally unacceptable, a number of intermediate solutions present themselves (...):

1. The composition of the ICRC is modified. Nationals of different countries would become members of the ICRC, together with their alternates. In time of war Committee members belonging to belligerent nations would automatically be excluded and replaced with members from neutral countries.

2. Status quo maintained in peacetime. In time of war, members from neutral countries would join the ICRC.

3. Status quo upheld for both the ICRC and the League.

The composition and powers of the Standing Commission would be reinforced, to enable it to coordinate the activities of both organizations.80

The two extreme solutions – merging the ICRC with the League and maintaining the status quo – were rejected unanimously, as anticipated by Count Bernadotte himself. The first of the middle-ground solutions was not adopted, the vote being evenly split. The second proposal was passed with a single-vote majority, and the third option was approved with the largest majority. The British Red Cross made an important declaration in support of the exclusively Swiss composition of the ICRC.

Furthermore, several members of the Special Study Commission, including the American Red Cross delegate, were of the view that the criticisms directed at the ICRC during the Board of Governors meeting at Oxford and at the Advisory Conference of National Red Cross Societies should be examined with a view to finding ways for future improvements. The ICRC’s representatives recalled that, although National Societies had been invited to make a detailed, written list of their grievances, so far not a single such list had been received.

At the close of its first meeting the Special Study Commission decided to send the proceedings of its debates, together with the full text of all proposals submitted, to all National Societies, requesting them to communicate their views before its next meeting, to be held in six months’ time. National Societies wishing to express their criticisms of the ICRC were also asked to set these out in a detailed written communication.81

80 Minutes of the meeting held on 26 and 27 November 1946 of the Special Commission to study ways and means of reinforcing the efficacy of the work of the ICRC, established by the Study Commission Bureau – ICRC Archives, B CR 247-8.
Grievances of the Yugoslav Red Cross

Eight National Societies responded to the proposals concerning the organization of the International Red Cross. Half were in favour of maintaining the status quo, the other half either wished for the ICRC to be made an international organization in time of peace or for members of neutral countries to join the International Committee in time of war only. Two of the eight National Societies were further in favour of strengthening the Standing Commission.

A ninth National Society, the Yugoslav Red Cross, which had been among the ICRC’s most outspoken critics at the meeting of the League’s Board of Governors at Oxford and at the Advisory Conference of National Red Cross Societies at Geneva, in July and August 1946, reiterated its reproaches by sending to the secretariat of the Special Study Commission articles published from September 1946 onward in three consecutive issues of the Yugoslav National Society’s Review.\(^\text{82}\) The ICRC had replied to all of the points raised in these articles in an open letter dated 14 February 1947.\(^\text{83}\)

In the articles, the Yugoslav Red Cross had accused the ICRC of having lost its neutrality because it was exclusively Swiss. Made up of Swiss nationals and supported by the Swiss government both materially and in the recruitment of its employees, the ICRC was alleged to be in the Swiss government’s service. It further alleged that the loss of neutrality was also due to the method of “cooptation” used to designate new members of the ICRC: members were responsible only towards the Committee but not to a body representing the international community. Some of the ICRC’s members were said not to have always shown themselves capable of rising above political affiliations or financial interests. The Yugoslav Red Cross accused the ICRC especially of not having protested against the dissolution of a number of National Red Cross Societies by the occupying power or against the concentration camps and of not having made the public aware of conditions in some of the prisoner-of-war camps. On the contrary, it had published deceptive visit reports, including that on Stalag VIII B,\(^\text{84}\) in which ICRC delegates described the camp as being “satisfactory” – later, during the Nuremberg trials, it was learned that over 100,000 of a total of 300,000 prisoners of war were executed in the camp. The ICRC was therefore alleged to have helped mislead public opinion instead of informing the public about the facts and giving it an opportunity to react.

In a memorandum sent to the president of the Yugoslav Red Cross, the ICRC categorically refuted the allegations made by the National Society which “distorted

\(^{82}\) Translations dated 26, 27 and 29 November and 4 December 1946 of articles appearing in La Croix-Rouge yougoslave, published by the directorate of the Yugoslav Red Cross – ICRC Archives, B CR 247-6.

\(^{83}\) Minutes of the meetings of the Bureau held on 16 January, 13 February and 3 April 1947 and of the plenary meeting of the ICRC held on 29 January 1947 – ICRC Archives, A PV. Rapport interne n° 1 pour la délégation du CICR à la Conférence de Stockholm, op. cit.

\(^{84}\) RICR, No. 280, April 1942, pp. 254–255.
the facts and affronted the International Committee”.\textsuperscript{85} It disputed having failed to remain neutral and impartial in any way. On the contrary, the ICRC affirmed having “had at all times the same desire to come to the aid of all the victims of war and had made its services equally available to all. Obviously this did not mean that it had provided the same volume of services to all the categories of victims of war. The Committee’s activity in any country depended foremost on the agreement of the authorities of that country.”\textsuperscript{86} The ICRC declared having acted in complete political and administrative independence of the Swiss government and that the different types of support offered by the Swiss authorities and population had not created even the slightest subordination of the ICRC to Switzerland. It also rejected the insinuations aimed at members of the International Committee, stressing that they had worked for free throughout the war and had no direct or indirect material interest in the activities of the organization. If in the majority of cases the ICRC had not resorted to public protest, despite having constantly approached the relevant authorities with a view to improving the treatment of war victims, this was because experience had shown time and again that such protests were entirely futile and, what was more, likely to compromise any practical work the ICRC could and should carry out. Its delegates had not been able to enter certain concentration camps until the very end of the war. The ICRC further confirmed that during the war it had not known any more about the concentration camps than the general public.\textsuperscript{87} As to the report on the Stalag VIII B camp in Lamsdorf, where more than 120,000, mostly British and Soviet, prisoners of war had been held, the ICRC had never been permitted to visit the part of the camp reserved for Soviet prisoners. Its report was valid only for the prisoners it had been authorized to see.

The ICRC’s memorandum was accompanied by a request to the president of the Yugoslav Red Cross that, in the interest of fairness, he publish the ICRC’s reply, failing which it would be sent to all National Societies.

In April 1947 the Yugoslav Red Cross transmitted the ICRC’s response to the National Societies together with its Review and an open letter to the ICRC. In this letter it recapitulated its earlier criticisms and added two further grievances: having recognized the “independent Croatian State” set up by the Germans in Zagreb following the occupation of Yugoslavia in 1941 and having delivered relief intended for the Jasenovac camp (in which hundreds of thousands of people were exterminated)

\textsuperscript{85} Letter of 14 February 1947 from Dr E. Gloor to the president of the Yugoslav Red Cross, M. Kecmanovic, and the annex to the letter, entitled “Réponse du Comité international de la Croix-Rouge aux accusations de la Croix-Rouge yougoslave”, CP 153 – ICRC Archives, B G 17/00/139.

\textsuperscript{86} Ibid.

\textsuperscript{87} In 1942 C.J. Burckhardt did in fact have information on the fate of the Jews at his disposal. See Jean-Claude Favez, \textit{The Red Cross and the Holocaust}, edited and translated by John and Beryl Fletcher, Cambridge University Press, Cambridge, 1999, pp. 38–41.
to people subsequently identified as war criminals. The ICRC decided to respond with a second memorandum, sent to all National Societies.

In this document the ICRC recalled its bases for action, both legal and statutory, and underlined that neither the Geneva Conventions nor its Statutes named the ICRC as “guardian” of these Conventions, contrary to assertions by the Yugoslav Red Cross. It also pointed out the limits of its work:

The only right of the International Committee of the Red Cross is that recognized in Article 88 [of the 1929 Convention relative to the Treatment of Prisoners of War] of performing humanitarian work for the protection of prisoners of war ‘with the consent of the belligerents concerned’ [underlined in the text]. It is because of this provision that the International Committee has been able to carry out thousands of visits to camps and to provide millions of prisoners of war with moral support, improve their treatment and deliver relief supplies from their home countries. However, it is no less true that millions of others held captive were never able to benefit from the ICRC’s assistance because authorization to do so was systematically refused, without this refusal constituting a breach of the Conventions.

As far as actual violations of the Conventions and crimes against the law of nations were concerned, in particular those committed against civilians and concentration camp deportees, it was true that the International Committee of the Red Cross did not draw attention to them through public protest. In the second memorandum the ICRC clearly stated that “it chose not to do so” and went on to point out that, from the start of the hostilities, and at a time when it was not yet clear how events would turn out, which precluded any side-taking, the ICRC had already set out its position in this respect in a circular letter of 12 September 1939, published in the International Review of the Red Cross. The Committee had the choice of protesting, and thereby potentially reducing itself to a position of powerlessness if its actions closed doors which the Conventions did not give it the means to force back open, or of limiting itself to the role of the Red Cross in the strict sense, which was to bring aid to those who needed it, “where authorized to do so”.

As to its alleged recognition of an “independent Croatian State”, the ICRC drew attention to the fact that not only, in its capacity as a private organization, did it not have the authority to do so, it also, as stated in its circular letter of 17 September 1941, had never recognized either said State or its Red Cross Society. The delivery of relief supplies to individuals subsequently identified as war criminals was due to

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88 See the letter of 26 April 1947 from the vice-president of the Yugoslav Red Cross to the ICRC – ICRC Archives, B G 17(00/139).
89 Minutes of the meetings of the Bureau held on 16 May and 2 July 1947 – ICRC Archives, A PV.
90 Article 7 of the Statutes of the International Red Cross of 1928 refers to the ICRC as the “guardian of the principles of the Red Cross”.
91 RICR, No. 249, September 1939, pp. 766–769.
92 See p. 38 above.
the fact that the ICRC had been authorized to send only a single delegate to Croatia. This had obliged it to make use of organizations “carrying out their work using an emblem that gave the ICRC reasonable cause to believe that they would perform their duties correctly.”

The second meeting

About a month before the second meeting, the chairman of the Special Study Commission, Dr Depage, travelled to Geneva to inform the ICRC and the League of his intention to steer the debate towards the organization of the International Red Cross as a whole rather than the composition of the ICRC in particular. In this way, most of the proposals submitted at the first meeting would be dismissed and only those certain to strengthen the ICRC, such as the proposal by the British Red Cross on the role of the ICRC and the facilities governments should be invited to grant it, would be approved. The proposal by the Swedish Red Cross, in contrast, would be rejected, Dr Depage now being convinced that any change in the composition of the ICRC would merely weaken it by depriving it of the stability conferred by Swiss neutrality and the force of tradition. On the other hand, an effort would have to be made to improve the unity of the International Red Cross and coordinate the work of its different components through the Standing Commission, whose functions would have to be modified accordingly. The new Standing Commission should under no circumstances undermine the ICRC’s independence in time of war.

This change of heart seemed to be due to the National Societies’ limited interest in the problem of whether or not the ICRC should be made an international organization, but also to the effect on Dr Depage of the brochure *Inter Arma Caritas*, published by the ICRC ahead of its General Report to provide a simple yet accurate description of its activities during the Second World War.

Without pronouncing themselves on matters of substance and reserving their organizations’ discretionary powers, the representatives of the ICRC and the League agreed that Dr Depage should propose that the Study Commission continue its work as above.

At its second meeting, held in Paris on 19 and 20 May 1947, the Special Study Commission adopted three proposals on the establishment of ICRC relief flights, the facilities to be granted to ICRC delegates in time of war to allow them to carry out their work and the financing of the ICRC. The Commission transmitted these
proposals to the ICRC, which was to bring them to the attention of governments and National Red Cross Societies and to take them into consideration in the preparatory work preceding the revision of the Geneva Conventions. The Special Study Commission further appointed its Bureau to prepare a preliminary draft in consultation with the relevant bodies, to ensure the flawless coordination of the different components of the International Red Cross. The draft was to include an amendment of the functions of the Standing Commission and the creation of a permanent coordinating body. As at the first meeting, the two ICRC director-delegates did not cast a vote.  

The Belgrade regional conference

At that point, the ICRC was invited by the Yugoslav Red Cross to attend the Regional Conference of European Red Cross Societies, to be held in Belgrade from 24 September to 1 October 1947. The main objective of the meeting was to examine the role of, and cooperation between, the National Societies and the League in international relief operations, especially those for victims of war. There was plenty of material for discussion, since at the time almost all European Red Cross Societies were involved in relief work, either at home or abroad. Given the importance of the Conference, the ICRC was represented by its vice-president, Dr Ernest Gloor, and two ICRC staff members.  

The Conference was attended by 19 European National Societies, the League, the ICRC and the American Red Cross, the last three having been invited to attend in an advisory capacity. The Spanish Red Cross was barred from attending, a further sign that the National Societies of Eastern Europe were influenced by their governments and that politics was shaping the debate. However, with the advent of the Cold War the weight of politics also started being felt on the Western side. Fearful that the Conference might approve a split in the Red Cross Movement, key figures such as Basil O’Connor and Count Bernadotte decided not to attend, their National Societies being represented by other delegates. The British Red Cross was also not present, citing financial difficulties as the reason for its absence.  

As it turned out, the Conference was indeed interrupted by several political outbursts: in the middle of the debate on relief activities, the delegate of the Soviet Alliance of Red Cross and Red Crescent Societies launched into a long declaration on the situation of displaced persons in Germany and the Western zones and the situation of Soviet children in Germany and Austria, whose repatriation was allegedly

97 Letter of 16 July 1947 by the Yugoslav Red Cross and its annex. Minutes of the meetings of the Bureau held on 31 July and 7 August 1947 – ICRC Archives, B CR 250-1 and A PV.
98 Report by E. Gloor, F. Siordet and R. Marti on their mission to the Balkans, presented at the plenary meeting held on 13 November 1947
being blocked by the British authorities. He accused the British, American and Swedish Red Cross Societies of encouraging “fascist” propaganda and camps for internally displaced people and of supporting attempts to stop the repatriation of Soviet children. He called for the adoption of resolutions condemning the above National Societies. Although the Swedish Red Cross delegate submitted elements exonerating his National Society, the Alliance delegation insisted on its draft resolution.99

On several occasions the National Societies of Eastern Europe further sought to establish a hierarchy of victims in need of assistance, based not on the urgency and scale of needs or the possibility of delivering relief but on the merits of the victims or their countries of origin, depending on whether they were “fascist” or “democratic” 100

Eastern European National Societies also tried hard to involve the Red Cross in a major campaign for peace centred on a violent condemnation of warmongering nations.

The ICRC, for its part, was not attacked. Invited to take part in a consultative capacity only, it preferred not to interfere in the debates. Although able to make a number of contacts, it was unable to enter into dialogue with the Alliance, owing to “language difficulties or because the Alliance obviously preferred to change the subject whenever the conversation turned to Red Cross matters”.101 The Yugoslav Red Cross in turn simply considered its recent argument with the ICRC to be a thing of the past.

The Belgrade Conference proved to be a major turning point for the ICRC. Marked by the split between the former Allies and the onset of the Cold War (the Soviet Union had rejected the Marshall Plan in July 1947 and the creation of the Cominform, in October 1947, was around the corner), the atmosphere was very different from that of the summer of 1946, when discussion had focused on the League and the decisions taken at its Oxford meeting. Some of the National Societies even rediscovered the usefulness of the ICRC, its principles of action and its role of neutral intermediary.

The third meeting of the Special Study Commission and Count Bernadotte’s change of heart

In parallel, following the second meeting of the Special Study Commission, Dr Depage himself had set to work, submitting to the ICRC and the League a first draft of the Statutes of the International Red Cross,102 which was to be organized as follows: the “Permanent Council” of the International Red Cross (replacing the Standing Commission) would be composed of three members of the ICRC, including

100 At the time the term “fascist” was used for different purposes in Eastern European nations: either to characterize the German and Italian regimes under Hitler and Mussolini or to refer to Western nations in general.
101 Report by E. Gloor, R. Marti and F. Siordet, op. cit.
its president, three members of the Board of Governors of the League, including its
chairman, and three members from National Societies, who would be appointed *ad
personam* by the International Conference of the Red Cross and not represent their
National Societies. The Permanent Council would set up a bureau comprising two
officials from the League, two senior ICRC staff members and a delegate of the
Permanent Council, who would hold the position of chairman. All the previously
distinct objectives of the ICRC and the League would be combined into the objec-
tives guiding the action of the International Red Cross as a whole. Therefore, any
important matters would be debated by the bureau of the Permanent Council and
submitted for decision to the chairman of the Permanent Council if the Bureau was
unable to reach a unanimous decision.

The ICRC considered that it could not accept the establishment of a higher body
having extensive *de facto* decision-making powers, which would lead to a fundamental
reorganization of the Statutes of the International Red Cross of 1928 and which
would not only deprive the ICRC of its own particular sphere of activity with respect
to the League but also, indirectly, take away its right of initiative. This “super-or-
ganism” would also offer no guarantee for its independence, neutrality and viability
in time of widespread war.\(^{103}\) The ICRC therefore informed Dr Depage that it would
not be able to support his first draft, even though it wished to improve coordination
of its own work and that of the League.

In September 1947, in the course of a meeting held with the ICRC in Geneva,
Dr Depage took note of these grievances and indicated that he would revise his
draft accordingly.

In November 1947, however, he sent the final version of his draft to all National
Society members of the Study Commission even though his proposal different only
slightly from the first draft. The ICRC informed the chairman of the Special Study
Commission that it could not approve the second draft and called on the Commission
members to reject it.\(^{104}\)

As the Belgrade Regional Conference had only recently demonstrated, the advent
of the Cold War underscored more than ever the need to avoid the creation of a new
body authorized to control the ICRC, which would inevitably reflect the antagonism
between the two opposing camps. And if such a body were to represent only one of
these groups, one might be tempted to think that the organization was under the
influence of that one single group. Mindful of this, the ICRC rightly calculated that

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103 Note of 11 August 1947 from M. Huber to the Bureau concerning a revision of the Statutes of the
International Red Cross – ICRC Archives, B CR 247-6, and minutes of the plenary meeting of the
ICRC held on 4 September 1947 – ICRC Archives, A PV.

104 Draft by Dr Depage of November 1947. Letter of 23 December 1947 from Dr E. Gloor to Dr
Depage – ICRC Archives, B CR 247-6 and 247-2. Minutes of the meetings of the Bureau held on
11 and 23 December 1947 – ICRC Archives, A PV. Letter of 16 March 1948 from Dr E. Gloor
to members of the Special Study Commission and the annex thereto: *Observations concernant
l’avant-projet de Status de la Croix-Rouge international établi par le Dr P. Depage, président de la
the wider political context played in its favour and that it would risk little by seeking to preserve its independence.\textsuperscript{105}

That having been said, to improve coordination and the exchange of information among the different components of the International Red Cross, the ICRC suggested to the Study Commission that a “collaboration programme” be conducted on a trial basis. It was also willing to examine how the role of the Standing Commission might be strengthened.\textsuperscript{106} The organization further decided that its representatives at the next meeting of the Study Commission, Dr Ernest Gloor, vice-president, and Léopold Boissier, member of the ICRC, who took the place of the two director-delegates, should be able to cast a ballot in any vote held to decide whether the ICRC’s refusal to discuss Dr Depage’s proposed plan should be put to a debate. The ICRC’s representatives were also to vote on any proposals drafted by them.\textsuperscript{107}

On the eve of the third meeting of the Special Study Commission, to be held on 19 and 20 March 1948, a meeting gathered Count Bernadotte, Dr Depage and members of the ICRC to build sufficient common ground to arrive at a constructive proposal considered satisfactory by the authors of the main proposals.

Count Bernadotte, heavily influenced by the incidents at Belgrade, stated having modified his point of view:\textsuperscript{108} although he still wanted the ICRC to find support for its work within the International Red Cross as a whole, he no longer thought it necessary for it to be subject to outside control or to change its exclusively Swiss composition. He intended to present a new proposal the following day, calling for the creation of a coordinating body which would not have a policy-making mandate and would function on a recommendation-basis only, subject to a four-year trial period. Dr Depage indicated that he was willing to support this proposal, provided the members of the Study Commission did the same. The ICRC’s representatives declared that they would accept any proposal of this kind if it did not call for a modification of the Statutes of the International Red Cross and if, during a trial period,

\textsuperscript{105} Minutes of the meeting of the Bureau held on 17 March 1948 – ICRC Archives, B CR 247-6.


\textsuperscript{107} Minutes of the meeting of the Bureau held on 16 March 1948 – ICRC Archives, A PV.

\textsuperscript{108} Count Bernadotte subsequently stated that his change of heart about the initiative to turn the ICRC into an international body had been heavily influenced by events in Belgrade. According to the Count, his proposal in this regard had “given rise to heated, prolonged discussions. A special commission was set up and met at regular intervals. In the course of these meetings I substantially revised my point of view on the matters at hand. One of the reasons for this change is related to the incidents that took place at the Belgrade regional conference, in September 1947 (...). In short, I was convinced of the necessity to maintain the Committee in its current form and not to alter the composition it has had until now.” Count Folke Bernadotte, Cessez le feu, Presses de la Cité, Paris, 1949, p. 204. See also Ralph Hewins, Count Folke Bernadotte, His Life and Work, Hutchinson & Co, London, pp. 173 and 178–179: “Such long, captious, embittered and unconstructive contributions from the Russian side finally convinced Bernadotte that he must revise his plans for reorganization of the International Red Cross organization. Clearly no useful purpose would be served by co-opting Russian or Communist representatives on to the International Committee.”
it was possible to gauge existing means of improving coordination of the activities of the ICRC and the League.

At the third meeting the Special Study Commission adopted Count Bernadotte’s draft as a basis for discussion. The draft provided for a modification of the functions of the Standing Commission in the form of an amendment to Article 10 of the Statutes of the International Red Cross, under which the Commission would henceforth represent the International Conference of the Red Cross in the period between meetings. Noting that one of the statutory functions of the International Conference was “to co-ordinate the work of the National Societies, the International Committee of the Red Cross, and the League of Red Cross Societies”, and to enable the Standing Commission to carry out this task, the Study Commission decided to recommend the creation of a sub-commission of the Standing Commission, to be composed of the chairman and one other member of the Standing Commission, two members of the ICRC and two members of the League. This sub-commission would meet at least once a month to coordinate the work of the different components of the International Red Cross and, with this in mind, to issue recommendations subject to final decisions by the International Conference. It would further be in charge of preparing items to be submitted to the Standing Commission. Lastly, depending on its experiences, it would be up to the sub-commission to study possible amendments or clarifications relating to specific mandates entrusted to the decision-making bodies of the International Red Cross.

Overall, the ICRC was reasonably satisfied with the recommendations of the Study Commission. Aware of the need to develop its collaboration with the League and not wishing to isolate itself from the rest of the Red Cross community, it had voted in favour of the recommendations. Nonetheless, it considered some of them imprecise and asked that this be remedied at the Stockholm Conference to avoid controversy at a later stage. In particular, the ICRC was displeased with the phrase “the Standing Commission shall represent the International Conference of the Red Cross in the intervals between meetings of that body”, which was imprecise, no one having thought to confer upon the Standing Commission, which represented only the Red Cross element of the International Conference, all the powers of said Conference in the period between meetings. In particular, the lack of precision affected the procedure to be followed in the event of a disagreement among the different groups represented by the Standing Commission, according to which contentious matters should be brought before the International Conference. Following this procedure would adversely affect the ICRC’s speed of response and jeopardize its right of initiative.

109 Article 1(2) of the Statutes of the International Red Cross of 1928.
Although the attitude of Count Bernadotte and the American Red Cross had gradually changed in the ICRC’s favour over the course of the various meetings, it feared that the debate on transforming it into an international body would resume at the Stockholm Conference. The Czechoslovak Red Cross, for its part, continued to push for an international ICRC until the last session, calling for the Soviet Alliance of Red Cross and Red Crescent Societies to be consulted on the matter and for a mission to be sent to Moscow to that end. The proposal was eventually referred to the Standing Commission, which rejected it.\textsuperscript{112}

The 17th International Conference of the Red Cross

The ICRC’s key concerns

The 17th International Conference of the Red Cross took place in Stockholm from 20 to 30 August 1948. Count Folke Bernadotte, president of the Swedish Red Cross, interrupted his mission as United Nations mediator for Palestine for several days to preside over the Conference.\textsuperscript{113}

As the first gathering of this type since the Second World War, the Conference was especially important in view of the matters submitted for deliberation. In addition to the revision of the existing Geneva Conventions and the drafting of a new Convention relative to civilians, the other main items on the agenda were reports by the different components of the International Red Cross (National Societies, ICRC, League) on their activities since the last International Conference (London, 1938); the strengthening of the constituent bodies of the International Red Cross and possible amendment of its Statutes; cooperation among the different components of the International Red Cross and study of the resolutions of the Advisory Conference of Red Cross Societies of 1946; and miscellaneous items related to financing and international relief activities, without forgetting numerous points concerning the activities of the National Societies and the League in time of peace in relation to the Junior Red Cross Movement, public health and social welfare.

The Berlin blockade having been in place for two months, the 17th International Conference opened in a climate of considerable tension. The conflicts in Palestine,


\textsuperscript{113} Count Bernadotte had been appointed United Nations mediator for Palestine on 20 May 1948. Less than three weeks after the end of the 17th International Conference, on 17 September 1948, he was shot in the line of duty in Jerusalem by Zionist extremist members of the Stern Gang in Jerusalem. See p. 428 below.
opposing Israel and the Arab nations, and in Kashmir, between India and Pakistan, showed no sign of abating. Indochina was sinking into war, and civil war had resumed in China and continued in Greece.

The International Red Cross had been feeling the fallout of the Cold War since 1947. There being a very real risk of a split between two groups of National Societies belonging to countries of opposite political persuasions, it was all the more important for the Movement to preserve its unity and universality.

For the ICRC in particular the main concern – approval of the draft conventions aside\(^{114}\) – was to ensure that it remained independent and that the Committee stayed exclusively Swiss. In the ICRC’s view, these two conditions were essential if it was to act as a neutral intermediary in its work for the victims of war and assume the role of guardian of the principles of the Red Cross, which guaranteed the unity of the Movement and faithful adherence to the spirit of the Red Cross.

In this context, the protection and assistance activities carried out by the ICRC since the end of the Second World War, especially in the “new conflicts”, were of particular interest, since they confirmed the need for a specifically neutral body within the International Red Cross. One example was the ICRC’s work in Palestine, where it was able to act as a neutral intermediary. Ahead of the 17th International Conference the ICRC had widely publicized its role in a 23-page brochure.\(^{115}\)

The ICRC devoted considerable efforts preparing what promised to be a significant event for the organization, in particular by making contact with the three main powers, the Soviet Union, the United Kingdom and the United States. As far as the Soviet Union was concerned, these attempts were unsuccessful, the ICRC’s proposal to send a delegation headed by the new ICRC President, Paul Ruegger, to Moscow to hold talks “on the full range of Red Cross activities” having met with refusal.\(^{116}\) However, before leaving London, where he had served as Swiss ambassador, Paul Ruegger, who had taken up his duties at the ICRC in May 1948, was able to prepare the ground with the British authorities. Further, during an official visit to the United States in July 1948 he was received by President Truman and a number of State Department representatives.\(^{117}\)

Since January 1948 the ICRC had held around a dozen meetings to define its position on a number of items on the agenda of the 17th International Conference.\(^{118}\)

\(^{114}\) This point is dealt with in a separate chapter and therefore not discussed in detail here. See pp. 209 ff. below.

\(^{115}\) Le Comité international de la Croix-Rouge en Palestine, Geneva, ICRC, July 1948.

\(^{116}\) Telegram of 31 March 1948 from the ICRC to Generalissimo Stalin, and note on the visit to the ICRC by the minister plenipotentiary of the Soviet Union to Switzerland on 14 April 1948 – ICRC Archives, A CL 08.025.00.

\(^{117}\) Minutes of the meeting of the Bureau held on 2 July 1948 and of the plenary meeting of the ICRC held on 21 July 1948 – ICRC Archives, A PV.

\(^{118}\) ICRC Archives – B CRI 25-8.
addition to the draft conventions and voluminous reports on its activities from 1938 to 1948, it had drawn up twenty-odd documents on specific matters of interest.

The ICRC sent a delegation of 16 members and 10 experts, headed by President Paul Ruegger, to the Stockholm Conference.

The absence of Eastern European countries and the participation of the provisional government of Israel

The 17th International Conference was attended by 48 government delegations and 52 delegations of National Red Cross Societies from 56 countries. Main absentees included the Soviet Union, Albania, Bulgaria, Czechoslovakia, Hungary, Poland, Romania and Yugoslavia. Japan was represented by a delegation from the Japanese Red Cross. Germany, deprived of exercising its sovereignty, had not been invited, but representatives of the German Red Cross sections in the British and American zones attended as observers.

Although the Soviet Union decided not to participate officially in the 17th International Conference, it did send Alliance representatives to Stockholm for the meetings of the Executive Board of the League, held before and after the Conference. These representatives were able to follow the debates of the 17th International Conference from the seats reserved for observers.

In addition to Conference participants with full voting rights, which is to say recognized National Red Cross Societies, States party to the Geneva Conventions, the ICRC and the League, some 30 international authorities and organizations were invited to attend as observers. They included the provisional government of Israel, which had adhered to the Geneva Conventions of 1929 on 3 August 1948, shortly before the opening of the Conference.

The Arab-Israeli conflict showing no signs of abating, Egypt contested the Israeli provisional government’s status of observer, arguing that Israel was not a State and

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121 Afghanistan, Argentina, Australia, Austria, Belgium, Bolivia, Brazil, Burma, Canada, Chile, China, Colombia, Costa Rica, Cuba, Denmark, Dominican Republic, Ecuador, Egypt, Ethiopia, Finland, France, Greece, Guatemala, Haiti, Iceland, India, Iran, Ireland, Italy, Japan, Lebanon, Liechtenstein, Luxembourg, Mexico, Monaco, the Netherlands, New Zealand, Nicaragua, Norway, Pakistan, Papal States, Paraguay, Peru, Portugal, Republic of the Philippines, Siam, Spain, Sweden, Switzerland, Syria, Turkey, Union of South Africa, United Kingdom, United States of America, Uruguay, Venezuela.
accusing the Red Cross of interfering in politics by issuing the invitation. When the dispute was brought before the Bureau of the International Conference, it was recalled that the sole objective of the Conference was the study of humanitarian matters within the competence of the Red Cross and that it was not a diplomatic conference of States and “of no political significance”. Therefore, the participation of the provisional government did not imply political recognition of Israel, especially since its representatives did not have the right to vote. The provisional government, in turn, declared having agreed to take part in the Conference as an observer to demonstrate its interest in the work of the Red Cross and because the Geneva Conventions stipulated a six-month waiting period between deposition of the instrument of adhesion by a High Contracting Party and entry into force of the Convention. Thereafter, the matter was allowed to rest.

In the week preceding the opening of the Conference several governments and National Societies from Eastern Europe sent letters and telegrams to Count Bernadotte, giving the reasons for their decision not to attend. All protested against the invitation of the Spanish government under Franco. The Yugoslav Red Cross denounced the “anti-democratic spirit” dominating the Red Cross world and accused the League in particular of having modified the resolutions adopted at the 1947 Belgrade Regional Conference. The Czechoslovak Red Cross recalled the position it had taken in the Special Study Commission on the matter of transforming the ICRC into an international body to ensure that it had the authority to carry out its mandates. At the time, it had expressed its concern that the new conventions, the text of which was due to be revised at the 17th International Conference, would not be accepted by all powers unless the composition of the ICRC was reformed. The Soviet Red Cross and Soviet government went even further: “To begin with, one of the organizers of the Conference is the International Committee of the Red Cross with which the Soviet Alliance of the Red Cross and Red Crescent Societies does not maintain relations. During the war the International Committee of the Red Cross did not protest against the fascist crimes and against the gravest violations of the International Conventions concerning the sick, wounded and prisoners of war committed by Hitler Germany. It is also a known fact that the International Committee of the Red Cross took up an unfriendly attitude towards the Soviet Union.”

122 Letters of 19 and 21 August 1948 from the Royal Legation of Egypt in Stockholm to the President of the 17th International Conference; reply by Count Bernadotte of 24 August 1948 and letter of 28 August 1948 from the delegation of the provisional government of Israel to Count Bernadotte – ICRC Library, collection relating to the 17th International Conference of the Red Cross.


124 Letter of 17 August 1948 by M. Basarov, chargé d’affaires ad interim of the Soviet Union in Sweden. See also the letter of 15 August 1948 by Dr Cholodkoff, president of the Executive Committee of the Soviet Alliance of Red Cross and Red Crescent Societies – ICRC Library, collection relating to the 17th International Conference of the Red Cross.
Opening of the plenary Conference and organization of working sessions

First to take the floor at the opening session, Count Bernadotte highlighted the importance for future generations of the decisions about to be taken by the Conference. The President of the ICRC, Paul Ruegger, chose to focus on the unity and universality of the Movement, approaching these aspects from two different angles: firstly, having emphasized the expansion of the work of Red Cross Societies during the war, he asked whether it was possible for all these activities to be carried out under the Red Cross emblem. He then appealed to the International Conference to reaffirm the fundamental principles by which “relief action can, at all times and in all places, be recognized as Red Cross relief.”

Secondly, in addition to the risk of weakening the Red Cross by dissipating its efforts and engaging in too many different activities not authorized everywhere, he drew the attention of the Conference to an even greater danger, “an attitude that would have the Red Cross take up rigid positions, on the strength of certain ideological or political conceptions”. “But the miracle of the Red Cross,” he went on to say, “is precisely that, through it, enemies could join forces, even on the battlefield, and assist their brethren. Can this miracle be repeated in future conflicts, if in peace-time, members of the Red Cross refuse to discuss, round the same table, the means of relieving those who suffer?”

The chairman of the League, Basil O’Connor, invited the International Conference to reflect on what conditions would have been like if, before the Second World War, the Red Cross had succeeded in gaining worldwide acceptance of a convention for the protection of civilians in time of war and in strengthening the existing convention on prisoners of war. He went on to add that this would have required the Red Cross to have sufficient moral power to obtain the universal application of these treaties and concluded that “it is abundantly clear that a vigorous Red Cross movement, both internationally and in each nation, supported by the conscience of mankind, is of the greatest moment to the world.”

Aware that attempts were made secretly to circulate the letter by the Soviet chargé d’affaires and to allow the rumour to spread that the absence of Eastern European countries was the fault of the ICRC, the ICRC delegation intervened, asking Count Bernadotte to have the letter in question read out at the first plenary meeting. In a statement, President Ruegger expressed his regret at the absence of the Soviet Union, with reference to the principle of the universality of the Red Cross. He went on to cite a number of facts contradicting the alleged absence of relations between the ICRC and the Soviet Alliance of Red Cross and Red Crescent Societies and the ICRC’s unfriendly attitude towards the Soviet Union. Regarding the ICRC’s position on violations of the international conventions, he referred to the ICRC’s report on its activities during the Second World War, in particular the chapters on respect for

125 See p. 38 above.
127 Ibid., p. 27.
the law and the principles of the Red Cross, protests by National Societies against alleged violations of the humanitarian conventions, protests and requests for inquiries in the Eastern European context, and civilian internees (political detainees, deportees, hostages, etc.) not protected by the Conventions. Lastly, the ICRC president recalled the invitation issued to the Alliance at Oxford and confirmed by letter dated 31 July 1946 to send a delegation to Geneva to thoroughly examine any matters the Alliance wished to clear up. No reply had been received to this invitation, any more than to the invitation by the Special Study Commission addressed to all National Societies, asking them to inform it of any grievances they might have in connection with the ICRC. He concluded that “possibilities for a frank and loyal explanation were thus made fully available; they are still available. Unfortunately, up to the present the USSR has not seen fit to make use of them. It awaited the opening of the Stockholm Conference to announce its abstention, arguing grievances against the International Committee which the latter can but reject as being unjust and ill-founded.”

Following the opening session, five commissions were constituted to carry out the work of the 17th International Conference: a General Commission, a Legal Commission, a Junior Red Cross Commission, a Relief Commission and a Health Commission.

The General Commission

One of the General Commission’s tasks was to adopt the ICRC’s activity report. In his presentation President Paul Ruegger stressed the need to extend to civilians the protection afforded by international humanitarian law. His address referred not only to the lessons learned from the Second World War, but also to the conflict in Palestine, “where the fighting (...) would have been more inhumane had the ICRC not acted in time for the adversaries to recognize (...) the fundamental rules of the Geneva Conventions”. He pointed out that the establishment of neutralized zones for non-combatants placed, with the belligerents’ consent, under the protection of the ICRC had been the first application of an emerging body of law. Having presented the figures on the ICRC’s activities during the Second World War, he went on to mention the ICRC’s activities in East Germany, where it was the only international aid organization recognized by the Soviet authorities and permitted to transmit donations from abroad; in France, where it worked for German prisoners of war and civilian workers, and on the Indian sub-continent and in Jakarta. Lastly, he recalled that “the fact that there exists in Geneva, on historically neutral territory, an independent institution free of all political allegiances and not controlled by any government

130 For the other items concerning the war in Palestine addressed during the 17th International Conference, please refer to pp. 441 ff. below.
131 See below, pp. 177 ff., 121 ff., 361 ff. and 293 ff.
By whatsoever, having a status of its own and a legal personality, guarantees that charitable work of a large scale can be carried out successfully at any time – speed being of the essence – in accordance with traditionally respected principles of humanity.”

The motion to approve the ICRC’s report was accepted unanimously.132

Ambassador André François-Poncet, vice-president of the French Red Cross and former deportee, who had spent two years as a captive in Germany, seized the opportunity afforded by the study of the ICRC’s activity report to state his regret that a nation should hold grievances against the ICRC and periodically refer to them without ever specifying what they were. The delegation of the French government further expressed the wish that the Soviet Union should accept that its grievances against the ICRC had no place in the work of the 17th International Conference, that it should retake its rightful place at this and all subsequent Conferences and that as a consequence it should assume its responsibility in the drafting of the Geneva Conventions.134 At his proposal, a resolution was voted in the form of an appeal to governments and National Societies absent from the Conference. Ratified in plenary session, it read as follows:

The XVIIth International Red Cross Conference,

having considered the letter addressed in the name of the Government of the Union of Soviet Socialist Republics to the President of the inviting Society, the Swedish Red Cross, implicating in particular the International Committee of the Red Cross,

notes with satisfaction the desire once again expressed by the President of the International Committee of the Red Cross for a direct and complete exchange of view on the grievances brought against the International Committee of the Red Cross by the Government of the Union of Soviet Socialist Republics, as well as on Red Cross problems in general,

in view of the international importance of the problems laid before the XVIIth Conference which have in substance no relation to the question referred to in the previous paragraph,

expressed the hope that the Government of the Union of Soviet Socialist Republics and the Alliance of the Red Cross and Red Crescent Societies of the said Union, as well as the Governments and Red Cross Societies which are not present at this Conference, give their assistance in the drawing-up of the Red Cross Conventions to which the XVIIth International Conference is devoting its efforts.135

132 Proceedings of the General Commission, 1st meeting, pp. 9 and 13 – ICRC Library, collection relating to the 17th International Conference of the Red Cross.
As it turned out, the decision to be open about its relations with the Soviet Union had worked in the ICRC’s favour.

Given the importance and complexity of the issue, the General Commission entrusted a sub-commission, to be chaired by Ambassador François-Poncet, with the task of studying the report by the Special Commission to study ways and means of reinforcing the efficacy of the work of the ICRC, said sub-commission having the mandate to accept, reject, modify or complete the conclusions of the Special Commission.\(^\text{136}\) Having referred to the Legal Commission the two draft resolutions proposed by the Special Study Commission concerning a possible transfer of ICRC headquarters and the facilities to be granted to ICRC delegates to enable them to carry out their mission in time of war,\(^\text{137}\) the sub-commission turned to the matter of means for better international coordination, by the League, of the activities of the ICRC and the National Societies represented at the Conference. It proposed the following Recommendations, adopted first by the General Commission and then by a plenary meeting of the 17th International Conference (Resolution XIII):

The XVIIth International Red Cross Conference,

(...) recommends that the Standing Commission meet regularly at least twice a year, that its activities be not confined to arbitrating differences arising from interpretation of the Statutes and to making preparations for the next International Conference, but that, in order to carry out in the period between the Conferences the latter’s functions of co-ordinating and harmonizing the work of the national Societies, of the International Committee of the Red Cross and of the League of Red Cross Societies, the Standing Commission examine if necessary all questions common to these two latter bodies and which demand their co-operation, and take such measures as the circumstances may demand, subject to their being subsequently referred to the next International Conference. Notwithstanding, it shall be clearly understood that the right of initiative, in their respective fields of activity, of the different bodies of the International Red Cross shall, in all cases, be strictly safeguarded. Any questions brought to the knowledge of the Standing Commission, or raised in the monthly meetings to be held from now on in Geneva between the officers of the Secretariats of the International Committee of the Red Cross and the League of Red Cross Societies, and any matters resulting from world events, may be laid before the Standing Commission,

recommends that the Standing Commission authorize the three Presidents, who are among its members, i.e., the Chairman of the Standing Commission itself, the President of the International Committee of the Red Cross and the Chairman of the Board of Governors of the League of Red Cross Societies, or, failing them, deputies already appointed by each of them, to consult or meet in cases of emergency, to take

\(^{136}\) Proceedings of the General Commission, *op. cit.*, 1st meeting, pp. 61 ff., and 3rd meeting, pp. 1 ff.

\(^{137}\) See p. 59 above.
whatever measures may be required. In any case, the Presidents should meet at least once between the bi-annual sessions of the Standing Commission and, furthermore, meet or consult whenever one of them shall make a request to this effect. The officers of the Secretariats of the International Committee of the Red Cross and the League of Red Cross Societies, who confer every month in Geneva, shall act as secretaries to the Presidents’ meeting and shall submit to it all questions, apart from those resulting from outside events, which may have been examined by them jointly, or brought up by any national Society. The Presidents shall report on the measures which they may have been led to take to the following meeting of the Standing Commission, considers that it is for the Standing Commission itself which, in accordance with its Statutes, shall fix its own procedure, to decide as to the creation of the post of Secretary of the Standing Commission.\textsuperscript{138}

These recommendations were entirely satisfactory to the ICRC, which regarded them as one of the only ways of avoiding being transformed into an international body. The revision of the Statutes of the International Red Cross was postponed. The exclusively Swiss composition and independence of the ICRC were saved. The idea that the Standing Commission should represent the International Conference was discarded. Furthermore, following a statement by President Ruegger before the General Commission, it was decided to do away with the procedure according to which, in the event of disagreement within the Standing Commission, contentious matters would be referred back to the International Conference of the Red Cross.

In its report the sub-commission had emphasized that this was an experience to be tried in time of peace and that any lessons learned should be brought to the attention of the 18th International Conference of the Red Cross. In the opinion of the ICRC, therefore, all potentially risky items on the agenda had been dismissed. Now, there would merely be in-depth exchanges of views between the ICRC, the League and the Standing Commission, the six-member sub-commission originally provided for having been replaced by a regular meeting of the presidents and chairman of the three organizations and body. The advantage of this solution was that it did not create a new body and resulted in no additional expenditures.\textsuperscript{139}

Regarding the financing of the ICRC, a matter of grave concern to the organization, the 17th International Conference approved the principle of regular financing by governments and National Red Cross Societies. Following a proposal to this effect by the ICRC, the Conference further decided to set up a commission, composed of five member National Societies, in charge of establishing a scale for contributions and,


\textsuperscript{139} Minutes of the plenary meeting of the ICRC held on 9 September 1948 – ICRC Archives, A PV.
in the immediate future, of ensuring prompt payment of the extraordinary contribution decided at the 1946 Advisory Conference of Red Cross Societies.

Lastly, the International Conference adopted a series of resolutions on relations among National Societies and between National Societies and the International Red Cross organizations, in time of peace and war, which confirmed those already adopted at the preceding meetings.

Resolution XXIX on the situation of National Societies in occupied territories—similar to the resolution adopted by the Board of Governors at Oxford and subsequently completed by the Advisory Conference of Red Cross Societies—resulted in the insertion of Article 63 into the Fourth Geneva Convention of 1949 to provide for the autonomy of National Societies and other relief societies in the event of occupation.

As to relations between the National Societies and the ICRC, the 17th International Conference considered that the ICRC “when acting in a given country, particularly in time of war or occupation, should do so, unless circumstances make it impossible or inadvisable, through the medium of the national Society concerned, and should in any event inform that Society of all its activities in the said country, including its dealings with the Government or any of its agencies”.

The Legal Commission

The most important item on the agenda of the Legal Commission was the study of the draft revisions of the existing Conventions and of the new Conventions covered in the chapter of this book devoted to the Geneva Conventions of 1949.

The Legal Commission also examined the resolution adopted by the 1946 Advisory Conference concerning specific problems of the Red Cross.

Regarding the scope of activity of the National Societies, the International Conference voted to extend the activity of National Societies—originally established to assist only the wounded and sick of the armed forces—to all victims of war, both civilian and military. It recommended that National Societies should contribute to relief work for enemy prisoners of war and civilian internees, in keeping with the principle of impartiality. It further recommended that National Societies include

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140 17th International Conference of the Red Cross, Stockholm, August 1948: Report, op. cit., Resolution VIII, p. 88. Minutes of the plenary meeting of the ICRC held on 20 September 1948 – ICRC Archives, A PV.
141 17th International Conference of the Red Cross, Stockholm, August 1948: Report, op. cit., p. 95
143 17th International Conference of the Red Cross, Stockholm, August 1948: Report, op. cit., Resolution XXX, p. 95.
144 See p. 224 below.
145 17th International Conference of the Red Cross, Stockholm, August 1948: Report, op. cit., Resolution XXV, p. 94.
146 Ibid., Resolution XXVI, p. 94.
in their activities legal assistance to foreigners (stateless persons, refugees and war victims) and requested the League and the ICRC to establish a standard programme in this field.\textsuperscript{147} Contrary to the anticipated divisions among National Societies on this point, the matter of welfare activities did not give rise to debate and was finally settled by a draft article in the Convention on the “wounded and sick” concerning restrictions in the use of the emblem.\textsuperscript{148}

The 17th International Conference considered that the ICRC should continue to transmit any protests it may receive concerning alleged violations of the Conventions. Taking into consideration the ICRC’s desire to improve the effectiveness of its activities in this regard, it emphasized the duty of National Societies to communicate protests to their governments and recommended that they do all in their power to ensure that their governments make a thorough investigation and that the results were communicated to the ICRC.\textsuperscript{149}

The Conference further approved the ICRC’s policy on the recognition of National Societies, having consisted “firstly, in postponing all recognition of national Societies for the duration of the war, and until the international situation had again become normal and, secondly, in maintaining the de facto relations necessary for the accomplishment of its humanitarian tasks, with all Red Cross Societies or groups, whether recognized or not.”\textsuperscript{150} The 1946 Advisory Conference having suggested that a joint commission of the League and the ICRC should study the 12 conditions of recognition of National Societies “to adapt them to current circumstances”, the 17th International Conference approved a new set of ten such conditions.\textsuperscript{151} The ICRC’s mandate to recognize new National Societies remained untouched, the matter not having been raised by the Conference.

The president of the Magen David Adom (the Jewish relief society founded in 1931 in Mandatory Palestine, which is equivalent to a National Society but instead of the emblems recognized by the Geneva Conventions – red cross, red crescent, red lion and sun – uses a red shield of David), who attended as a member of the delegation of the provisional government of Israel, seized the occasion to announce that his Society intended to apply shortly for formal recognition and that he would be seeking the

\textsuperscript{147} Ibid., Resolution XXXI, p. 95.

\textsuperscript{148} Under Article 44 of the Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, of 12 August 1949, the National Red Cross Societies may employ the emblem “confering the protection of the Convention”, in time of war, only to indicate or to protect the medical units and establishments and the personnel and material protected by the Convention.

\textsuperscript{149} 17th International Conference of the Red Cross, Stockholm, August 1948: Report, op. cit., Resolution XXII, pp. 93–94.

\textsuperscript{150} Ibid., Resolution XII, p. 90.

\textsuperscript{151} Ibid., Resolution XI, p. 89. These ten conditions of recognition remained in force until 1986, when a new version of the text was drawn up and incorporated into the Statutes of the International Red Cross and Red Crescent Movement, the main differences being terminological. See also Christophe Lanord, Le statut juridique des Sociétés nationales de la Croix-Rouge et du Croissant-Rouge, op. cit., p. 184.
same privileges for the shield of David emblem as are “afforded to other Societies not using the Red Cross emblem”.  

The two draft resolutions transmitted by the General Commission to the Legal Commission, concerning a possible transfer of the ICRC’s headquarters and the facilities to be granted to ICRC delegates, were finally covered by a general resolution relative to the facilities to be granted by governments to National Red Cross Societies and the International Red Cross organizations. The 17th International Conference thus considered it:

highly desirable that Governments grant them every facility in the exercise of their activities in time of peace as in time of war, particularly as regards travelling for their personnel, transmission of correspondence, transfer of relief supplies and funds, and that they likewise grant exemption from all taxation, customs, postal and transport dues,

 recommends that Governments give the International Committee of the Red Cross every facility should the latter deem it necessary, in time of war, to transfer all or part of its services to a country more easily accessible to the belligerents.  

The matter of a transfer of headquarters, which reflected the concern of a number of States having wanted to be in closer contact with the ICRC when Switzerland was encircled by Germany, was thus resolved without the need to consider the option of violating Swiss neutrality or territory, something both the ICRC and the Swiss government’s delegation were anxious to avoid.

Bearing in mind a wish expressed at the 1946 Advisory Conference, the 17th International Conference, following a proposal by the ICRC, adopted a resolution on non-directed weapons. Having recalled the prohibition of the use of poison gas and bacteriological agents, laid down in the Geneva Protocol of 17 June 1925, and having noted that the use of non-directed weapons (that is to say, weapons striking indiscriminately) “would involve the destruction of persons and the annihilation of the human values which it is the mission of the Red Cross to defend”, the Conference “earnestly requests the Powers solemnly to undertake to prohibit absolutely all recourse to such weapons and to the use of atomic energy or any similar force for purposes of warfare”.

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152 17th International Conference of the Red Cross, Stockholm, August 1948: Report, op. cit., p. 77. The four National Societies in question are the Egyptian, Syrian and Turkish Red Crescent and the Iranian Red Lion and Sun. On the matter of the Magen David Adom and the emblem, see also p. 241 below.


154 Minutes of the fifth and eighth preparatory meetings held by the ICRC delegation at Stockholm, and minutes of the plenary meeting of the ICRC held on 9 September 1948 – ICRC Archives, CRI 25-8 and A PV.

155 17th International Conference of the Red Cross, Stockholm, August 1948: Report, op. cit., Resolution XXIV, p. 94.
Finally, independently of the draft conventions, the 17th International Conference approved a resolution drawing attention to the Diplomatic Conference of 1949 and expressed the hope that governments would apply humanitarian principles to persons prosecuted or detained for political reasons.\footnote{156 17th International Conference of the Red Cross, Stockholm, August 1948: Report, op. cit., Resolution XX, p. 93. See also p. 233 below.}

**The Relief Commission**


The International Conference further adopted various resolutions concerning better coordination of relief work by the ICRC and the League;\footnote{158 Ibid., Resolution XXXVIII, p. 97.} the constitution of special funds by either the National Societies or by the ICRC and the League for emergency international relief work;\footnote{159 Ibid., Resolution XXXIX, p. 97.} the participation of donor National Societies in the cost of handling and forwarding relief supplies sent by them for relief work carried out through the intermediary of the ICRC;\footnote{160 Ibid., Resolution XL, p. 97.} and the facilities to be granted by governments to the National Societies and the International Red Cross organizations in the matter of relief.\footnote{161 Ibid., p. 83}

**Conclusion**

The ICRC had travelled to the 17th International Conference fearing the worst. Fortunately, its concerns proved unfounded.

The president of the ICRC rightly pointed out in his closing statement that, regarding the Movement, the Conference had unanimously agreed that it was “imperative to preserve the ideal of the Red Cross, represented in particular by the Red Cross emblem (...) and that the field of action of the Red Cross should be definitively outlined”. He considered that the Conference had clearly shown its will that the International Red Cross should develop according to the principle of universality, just as its work had been guided by two other principles: Red Cross neutrality and its non-political character.\footnote{162 Ibid., p. 83}
As to the ICRC, it was successful on several fronts. Most importantly, the 17th International Conference approved the four draft Geneva Conventions submitted by the ICRC and indicated that not only the National Societies but also governments were determined that the process of revising and developing international humanitarian law should be completed as soon as possible.\textsuperscript{163}

The item on the agenda devoted to the strengthening of the constitutive bodies of the International Red Cross – and no longer to the strengthening of the efficacy of the action of the ICRC, as originally intended – no longer raised the question of transforming the ICRC into an international body. Although in Resolution XIII the 17th International Conference did broaden the functions of the Standing Commission and outlined changes designed to achieve better coordination between the different components of the Movement, the Conference did not amend the Statutes of the International Red Cross or infringe upon the independence and right of initiative of the ICRC.

Although there had been difficult moments for the ICRC delegation, all the debates had turned in its favour and most of the resolutions adopted reflected its preferences. As a result, it returned from the 17th International Conference a stronger organization.\textsuperscript{164}

The absence of the Eastern European countries was the only shadow cast over this largely favourable outcome. Although it had certainly simplified the debates and prevented the disintegration of the International Red Cross, the threat of a split in the Movement very much remained.

\textsuperscript{163} See p. 224 below.
\textsuperscript{164} Minutes of the plenary meeting held on 9 September 1948 – ICRC Archives, A PV.
CHAPTER 2
Revision of the Statutes of the International Red Cross, and the 18th International Conference of the Red Cross

Following the adoption of Resolution XIII on the strengthening of the constitutive bodies of the International Red Cross by the 17th International Conference, the Standing Commission met as stipulated at least twice yearly. Between meetings the chairmen of the Standing Commission and the Board of Governors of the League and the president of the ICRC met for consultations, while the secretariat of the League and the directorate of the ICRC continued to meet on a monthly basis. The ICRC and the League were working together successfully on relief for Palestinian refugees and the repatriation of Greek children. Assistance to civilians in Korea, in contrast, was to test their working relationship in earnest, and to bring up once again the matter of a revision of the Statutes of the International Red Cross.

The fact that by then the four Geneva Conventions of 1949 had been adopted, which included 60 articles mentioning either the ICRC or the Central Prisoners of War Agency, was a source of support for the ICRC. The Conventions consolidated the ICRC’s role in work for war victims and at the same strengthened the position of the organization within the International Red Cross.

On the political front, there was no end to the tensions between the Western and Eastern blocs, and the arms race continued unabated. In June 1950, the Korean War broke out.

1 Aside from its chairman, Ambassador André François-Poncet (France), the Standing Commission was composed of Henrik Beer (Sweden, which had been assigned the seat left vacant following the assassination of Count Bernadotte), T.W. Sloper (Brazil), appointed deputy chairman, Rana Tarhan (Turkey) and Lord F.J. Woolton (United Kingdom), as well as two representatives of the ICRC, including its president, Paul Ruegger, and two representatives of the League, among them the chairman of the Board Governors, Basil O’Connor. Following his resignation, he was succeeded by Emile Sandström (Sweden), who was elected chairman of the League in October 1950. To avoid two members of the Swedish Red Cross from holding office at the same time, Henrik Beer ceded his place to James T. Nicholson (United States).
2 See pp. 454 ff., 458 ff. and 571 ff. below.
3 See pp. 531 ff. below.
4 See pp. 209 ff. below.
Revision of the Statutes of the International Red Cross

In October 1950 the situation in Korea prompted the Chairman of the Standing Commission, Ambassador François-Poncet, to bring back on the table the revision of the Statutes of the International Red Cross, which had been set aside at the Stockholm Conference.

That having been said, a revision of the Statutes had been in the air for some months. The League, for instance, had started revising its own Statutes without consulting the ICRC, with a view to their adoption by the Board of Governors meeting to be held in October 1950, in anticipation of their final approval by the 18th International Conference of the Red Cross, to be held in Washington in 1952. A revision of the League’s Statutes, however, could potentially affect the Statutes of the International Red Cross. This being a source of concern for the ICRC, it requested – unsuccessfully – to be kept informed about the draft to ensure that it complied with the Statutes of the International Red Cross, especially regarding the respective functions of the League and the ICRC.

As time went by, it emerged that the proposed revision was also motivated by the ambition of some National Red Cross Societies to become involved in international relief activities for civilians, as during the Second World War, when they had gained both experience and prestige. Although they did not question the ICRC’s prerogative in time of war, the same cannot be said for peacetime – and by peacetime they meant any context in which there was no widespread international conflict and in which, according to the National Societies in question, it was up to the League to facilitate their work.

The ICRC, whose role and activities in time of international and non-international armed conflict had been recognized in the 1949 Geneva Conventions, assumed that it was responsible in any conflict situation, whether widespread or not, in which a neutral intermediary was necessary. This was the case, for instance, in Korea, where the ICRC was in disagreement with the League over who was competent to coordinate relief operations for civilians and where some National Societies had approached the ICRC and others the League. The ICRC considered the idea that the League should start a relief operation in a country at war an innovation that was also a departure from the Statutes of the International Red Cross.

Several National Societies expressed their regret at what might be perceived as competition within the Red Cross Movement and their wish for greater cohesion between the ICRC and the League.\(^6\)

Having failed, despite several attempts, to obtain a copy of the draft revision of the Constitution of the League prior to the meeting of the Board of Governors held

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\(^6\) Minutes of the meetings of the Presidential Council held on 20 April, 19 May (including annex by J. Duchosal), 27 July and 10 August 1950, and of the plenary meeting of the ICRC held on 13 July 1950 – ICRC Archives, A PV. Minutes of the “three presidents” meeting held on 22 July 1950 – ICRC Archives, B AG 101, 1950–1955.
in Monte Carlo from 16 to 20 October 1950, the ICRC eventually decided to make a statement at the meeting, reminding participants of the functions reserved to the ICRC in the Statutes of the International Red Cross and the Geneva Conventions of 1949.7

However, at the Board of Governors meeting, the two ICRC representatives, who had been invited as observers, were not authorized to present their statement in time, that is to say before voting. At their request, and following the adoption of the new Constitution of the League, the chairman of the League, Basil O’Connor, did however, add the following official statement: “None of the provisions of the Constitution and Bye-Laws of the League of Red Cross Societies may be interpreted as binding the International Committee of the Red Cross, the International Red Cross Conference or any other international body, or as affecting their rights.”8

The decision of the Standing Commission

Taking advantage of the presence of National Society delegates in Monte Carlo, the Standing Commission held a meeting on 19 October. The main items on the agenda were the “events in Korea” and “the respective roles of the ICRC and the League in time of war”, which Ambassador François-Poncet decided to discuss at the same time. Having noted that, in the Korean case, some National Societies had contacted the League and others the ICRC, he pointed out that one might well consider that the League, members of which belonged to both belligerents, should remain in the background in time of war, the ICRC, which was by definition a neutral organization, being recognized by all warring parties.

This interpretation could be based on Articles VII and VIII (concerning the ICRC and the League, respectively) of the Statutes of the International Red Cross. However, on the one hand, without even going into the actual Constitution of the League, Resolution XXVIII of the 17th International Conference of the Red Cross “recommends that the League of Red Cross Societies maintain contact between national Societies in time of war” and, on the other hand, the ICRC, pursuant to Article VII, remains invested in a number of humanitarian tasks in peacetime. Therefore, in time of war and peace, the two institutions have overlapping areas of responsibility.

The chairman of the Standing Commission suggested two complementary approaches to solving this problem: firstly, a pragmatic approach based on the good

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7 Minutes of the plenary meeting of the ICRC held on 14 September 1950, and of the meeting of the Presidential Council held on 5 October 1950 – ICRC Archives, A PV.
will of the two parties, with the Standing Commission continuing to ensure coordination between the ICRC and the League by relying less on legal texts and more on a mutual desire to work together; and secondly, and a law-based approach, wherein the Standing Commission would study the Statutes and Rules of Procedure of the International Red Cross to clarify them and adapt them to changing circumstances. To this end, the Standing Commission would consult National Societies, the ICRC and the League, to gather their suggestions and propose modifications to the Statutes on the occasion of the 18th International Conference.

The president of the ICRC indicated that he supported the proposals while at the same time warning against taking hasty unilateral decisions. Recalling that the ICRC had not seen the new Constitution of the League before the meeting of the Board of Governors, he continued: “Today we have before us a text which I have reason to believe, if necessary changes are not made, would have a serious adverse effect on the Statutes of the International Red Cross, with which it forms a whole. An amendment of the Statutes of one of our institutions directly influences the position of the others. It should be recalled that the Diplomatic Conference of 1949 incorporated into the new Geneva Conventions important provisions on the role of the ICRC. These provisions were established on the basis of the current powers and status of the ICRC within the International Red Cross, the Conferences of which are attended by governments.” He concluded that only a solution arrived at and adopted jointly by all the constituting bodies of the International Red Cross would be valid.

One month later the League sent a letter to all National Societies, asking them to suggest any amendments they thought might usefully be made to the Statutes of the International Red Cross.

**The position of the ICRC**

The ICRC, for its part, put together a Statutes Commission, chaired by Léopold Boissier, member of the ICRC. The Commission was appointed foremost to determine the powers specific to the ICRC, the intention being that the findings would be used to prepare a draft revision of the Statutes of the ICRC.

To that end the Statutes Commission drew up a comprehensive list of the organization’s activities. It then classified these activities, not depending on whether they were carried out in time of war or peace, which are the most frequently used criteria but which do not eliminate all overlap with the League, but by the three aspects defining the nature of the ICRC’s work:

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10 Minutes of the meeting of the Standing Commission held on 19 October 1950, cited above.
1) Foremost, the ICRC is the founder and promoter of the Red Cross, which confers upon it a number of prerogatives, including the recognition of National Societies, upholding the Fundamental Principles, etc.

2) The ICRC is also the promoter of international humanitarian law and therefore called upon to strive for constant improvements in that law.

3) The ICRC is an independent, neutral humanitarian body enshrined in international law. In this capacity it carries out practical activities to come to the aid of victims of war and internal disturbances, on the basis of either the mandates entrusted to it by the Geneva Conventions or its right of initiative.

There are three corresponding types of activities: 1) activities inherent in the nature of the ICRC; 2) activities to promote international humanitarian law; and 3) practical activities, of which some are prescribed and others at its discretion.

Therefore, activities stipulated in the Geneva Conventions cannot be contested, a fact of which the ICRC was fully aware.

In contrast, the ICRC noted that, in the eyes of the League, it seems that activities inherent in the nature of the ICRC and those resulting from its right of initiative should be redistributed between the two institutions. For example, the League was positioning itself as a guardian of the principles, reserving the right to admit to its ranks National Societies not yet recognized by the ICRC and carrying out an increasing number of international relief actions, even in places at war. Its new Constitution, adopted in October 1950, contained major changes in this respect compared with the previous revisions of 1938 and 1946.\(^{13}\)

The second step was for the Statutes Commission of the ICRC to examine the new Constitution of the League. Having compared it with the Statutes of the International Red Cross,\(^{14}\) it concluded that it would be illusory to expect it to be modified in line with the ICRC’s point of view. The same was probably true for a revision of the Statutes of the International Red Cross that took into account the new Constitution, since at the International Conference the ICRC had only one vote against those of all the National Societies.\(^ {15}\)

Lastly, the Commission found that although the Statutes of the International Red Cross had potential for improvement, they did not hamper the activities of the different components of the Red Cross to the point where an immediate revision should be called for. With the conflict in Korea threatening to spill over to the rest of the world and the principle of universality at risk, the timing did not seem conducive

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to an exercise this delicate. It was considered that the topics that were a source of friction between the ICRC and the League, and which motivated the decision by the Standing Commission, could easily be resolved by an agreement between the two institutions, to be concluded on the basis of equal representation, with each party having one vote.\textsuperscript{16}

The ICRC presented its point of view at a meeting of the Standing Commission held on 12 May 1951, recalling that the Statutes of the International Red Cross of 1928 were the result of long negotiations with the League and owed their value to the fact that they enshrine an explicit agreement reached by the two institutions. At the time, it had been generally admitted that, given the respective nature and functions of the ICRC and the League, both of which were recognized as independent entities, arriving at a prior understanding was an indispensable precondition for a rational organization of the International Red Cross. The ICRC considered that this principle had lost none of its relevance: to achieve its intended objective any revision of the Statutes had to be preceded by an agreement concluded between the ICRC and the League within the meaning of Article 2 of the current Statutes.\textsuperscript{17} Such an agreement, which should specify and delimit the respective powers of the two institutions, might by its nature have an effect on the Statutes of the International Red Cross and even, if approved by the International Conference of the Red Cross, end up acquiring statutory value.\textsuperscript{18}

The Standing Commission, however, decided to uphold its decision to revise the Statutes of the International Red Cross. To this end it appointed a sub-commission, chaired by one of its members, T.W. Sloper (Brazil), the other two members being a delegate from the French Red Cross and one from the British Red Cross, and instructed it to work closely with the ICRC and the League.\textsuperscript{19}

\textit{The negotiations}

Without formally opposing the revision of the Statutes of the International Red Cross, the ICRC took advantage of the first meeting of the Sub-Commission of the Standing Commission held on 9 and 10 July 1951, to reiterate its point of view. The Sub-Commission recognized the merits of an agreement between the ICRC and the League and requested the two institutions to initiate talks on the subject without delay. In parallel, it set to work on the revision of the Statutes of the International Red Cross, reserving to the ICRC and the League the task of studying all articles concerning their respective attributions, cooperation between the two institutions


\textsuperscript{17} See footnote 51, p. 49 above.

\textsuperscript{18} Minutes of the meeting of the Standing Commission of 12 May 1951, and shorthand records of the meeting – ICRC Archives, B AG 101, 1950–1955.

\textsuperscript{19} Idem.
and the role of the Standing Commission. The remaining articles were to be revised by the Sub-Commission. A similar method was adopted for the revision of the rules of procedure of the International Conference of the Red Cross.  

During the second half of 1951, representatives of the ICRC and the League held a series of discussions to arrive at a revised version of the articles of the Statutes of the International Red Cross reserved to them and an agreement on how the functions of the two institutions should be shared. In consultation with the ICRC and the League, the Sub-Commission of the Standing Commission further prepared a first draft revision of the non-reserved articles.

On 16 August 1951 a plenary meeting of the ICRC adopted its new Statutes at first reading. It subsequently sent a copy to the League, with a request for comment.

Regarding the revision of the Statutes of the International Red Cross, the ICRC considered that this involved two risks: the tendency of the League to impose itself as the only existing intermediary between the ICRC and the National Societies, and that of the Standing Commission to claim the powers of an autonomous body having a right of decision and right of action. The ICRC, however, must be able to deal directly with anyone who might be able to further the objectives it pursues, just as it has to safeguard its independence at all costs, to ensure its role as neutral intermediary. As to its agreement with the League, a number of sensitive points emerged, concerning the distribution of powers between the two institutions in the matter of relief to civilian populations, especially in time of war, civil war, occupation or internal disturbances.

Shortly before the meeting of the Sub-Commission of the Standing Commission, scheduled to be held on 30 November and 1 December 1951, the ICRC and the League managed to reach an agreement on the articles directly concerning them. The Sub-Commission accepted the articles in question with some very minor modifications. The ICRC, League and Sub-Commission also agreed on the remaining articles.

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21 Minutes of the plenary meeting of the ICRC held on 16 August 1951 – ICRC Archives, A PV. The new Statutes of the ICRC were adopted by the plenary Assembly of the ICRC on 25 September 1952, following the 18th International Conference of the Red Cross and the entry into force of the new Statutes of the International Red Cross. They were reproduced in the *Handbook of the Red Cross*, 10th edition, *op. cit.*, pp. 306–311.
23 In this respect, see the letter of 8 June 1951 from the Secretary-General of the League to the Belgian Red Cross – ICRC Archives, B AG 010-001, 1951–1959.
24 Minutes of the plenary meeting of the ICRC held on 16 August 1951, cited above.
25 Minutes of the working session of the ICRC held on 19 July 1951 – ICRC Archives, A PV. Unsigned note of 1 November 1951, regarding the as yet unresolved differences with the League concerning the revision of the Statutes of the International Red Cross – ICRC Archives, B AG 010-003, 1951–1959.
of the Statutes of the International Red Cross and the Rules of Procedure. On the eve of the meeting of the Standing Commission, after direct contacts between the president of the ICRC, Paul Ruegger, and the chairman of the Board of Governors, Emil Sandström, the two institutions concluded an agreement aimed at specifying more precisely their respective functions. The fear of seeing the Standing Commission transform itself into a third International Red Cross institution in the absence of such an agreement would appear to have played a role in this respect.26

As a result, at the meeting of 7 December 1951, the Standing Commission was able to approve the draft revision of the Statutes of the International Red Cross. Towards the end of December the draft was sent to the presidents of the National Societies with a view to being adopted by the 18th International Conference of the Red Cross.27 The Standing Commission also took note of the agreement entered into by the ICRC and the League, which took the form of an entente cordiale, as desired by the Commission.28

The Agreement between the International Committee of the Red Cross and the League of Red Cross Societies for the Purpose of Specifying Certain of Their Respective Functions (referred to hereafter as the ICRC-League Agreement), unanimously approved by the League’s Executive Committee with two abstentions (by China and the United States) was officially recognized on 8 December 1951 by the signatures of the president and chairman of the two institutions. It would not formally enter into force until ratification by a plenary meeting of the ICRC and the Board of Governors of the League – in other words, not until after the 18th International Conference. Paul Ruegger, however, suggested to the chairman of the League that the spirit of the agreement should be implemented without delay. The proposal was favourably received by Emile Sandström.29

The Agreement between the ICRC and the League

The Agreement,30 which was supplemental to the Statutes of the International Red Cross, specified the respective functions of the two institutions in situations where they might be called upon to carry out their activities side by side.

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26 Annex to the minutes of the meeting of the Presidential Council held on 29 November 1951 – ICRC Archives, A PV.
29 Minutes of the meeting of the Presidential Council held on 13 December 1951 – ICRC Archives, A PV. Letter of 6 February 1952 from the president of the ICRC to the chairman of the League. Note de service of 20 February 1952 by the ICRC Directorate on relations with the League – ICRC Archives, B AG 010-002, 1951–1959. A plenary meeting of the ICRC gave its final approval of the ICRC-League Agreement on 27 August 1952. The Board of Governors had adopted the Agreement on 8 August 1952, on the occasion of the 18th International Conference held in Toronto.
Regarding the coordination of National Society relief activities for civilians, the Agreement confirmed that the ICRC alone was competent “in all cases where the intervention of a specifically neutral body is required to carry out a relief operation on behalf of a civilian population”. At the same time, it confirmed that the League was qualified “to ensure the coordination of relief operations undertaken as the result of an appeal addressed by it to the National Societies on behalf of one of their sister Societies” or when “several National Societies carrying out a relief operation in one country on behalf of the civilian population request the League to coordinate their work”. However, “should the League be called upon to coordinate relief work in a country where there is war, occupation, civil war or internal strife”, the League had to get in touch with the ICRC to make sure that its relief operation would in no way be prejudicial to the role incumbent on the ICRC, notably by virtue of the Geneva Conventions. In addition, the ICRC was expressly responsible for activities in situations of occupation or blockade, whether they concerned negotiations with the authorities to allow relief supplies, the transmission of supplies, the monitoring of distributions or the assignment of staff.

In return, the ICRC agreed that the League would be competent to provide relief in the event of natural disaster in time of peace, with the exception of activities carried out using its own funds or funds not originating from the National Societies.

Both the ICRC and the League were competent to carry out activities for refugees, the neutrality aspect being a determining factor for the work of the ICRC.

Regarding the recognition of National Societies, a task assigned to the ICRC, and the admission of National Societies to the League, it was provided that the case presented by candidates should be examined jointly by the two institutions.

Lastly, it was agreed that the ICRC and the League would be able to act jointly or separately in matters relating to the integrity of the National Societies.

The new Statutes of the International Red Cross

Overall, the draft revision of the Statutes31 adopted by the Standing Commission in preparation of the 18th International Conference does not modify the overall organization of the previous Statutes. The main amendments related to the articles concerning the ICRC, the League and relations between them, and reflected the changes that had occurred since 1928. Secondly, they incorporate elements of Resolution XIII of the 17th International Conference on the strengthening of the Standing Commission.

Article VI of the new Statutes defines the ICRC and its attributions, as follows:

1. The International Committee of the Red Cross is an independent institution, governed by its own Statutes and recruited by co-optation from among Swiss citizens.

2. It maintains the fundamental and permanent principles of the Red Cross, namely: impartiality, action independent of any racial, political, religious or economic considerations, the universality of the Red Cross and the equality of the National Red Cross Societies.

3. After having assembled all pertinent data, it announces the recognition of any newly established or reconstituted National Red Cross Society which fulfils the conditions for recognition in force.

4. It undertakes the tasks incumbent on it under the Geneva Conventions, works for the faithful application of these Conventions and takes cognizance of complaints regarding alleged breaches of the humanitarian Conventions.

5. As a neutral institution whose humanitarian work is carried out particularly in time of war, civil war, or internal strife, it endeavours at all times to ensure the protection of and assistance to military and civilian victims of such conflicts and of their direct results. It contributes to the preparation and development of medical personnel and medical equipment, in co-operation with the Red Cross organizations, the medical services of the armed forces, and other competent authorities.

6. It takes any humanitarian initiative which comes within its role as a specifically neutral and independent institution and intermediary and considers any question requiring examination by such an institution.

7. It works for the continual improvement and diffusion of the Geneva Conventions.

8. It accepts the mandates entrusted to it by the International Conference of the Red Cross.

9. Within the framework of the present Statutes and subject to the provisions of Article VII, it maintains close contact with National Red Cross Societies. It also maintains relations with Governmental authorities and any national or international institutions whose assistance it considers useful.\(^32\)

Article VI was directly inspired by the new draft Statutes of the ICRC, adopted at first reading by a plenary meeting of the ICRC on 16 August 1951. It approved almost all of the activities carried out by the ICRC, whereas the corresponding article in the 1928 Statutes (Article 7) offered a weaker description of the work traditionally undertaken by the organization.\(^33\) Formally, the new article differed from the previous


\(^33\) See Introduction, p. 9.
one in that each of the ICRC’s attributions is now the subject of a separate paragraph. Paragraphs 2 and 3 preserve the ICRC’s role in upholding the Fundamental Principles of the Red Cross and the recognition of National Societies, thereby confirming its moral authority. Furthermore, unlike in the old article, the new one spells out each of the Fundamental Principles, which was important to the ICRC at a time when they seemed to be falling by the wayside. New elements were incorporated in particular in paragraph 7, which codified a well-established custom already enshrined in the 1949 Conventions, and in paragraph 9, which expressly mentions relations between the ICRC and the National Societies. Paragraph 9 was the fruit of a special understanding between the ICRC and the League, which consented that a clause specifying the functions reserved to the ICRC under Article VI should be incorporated into Article VII, which sets out the attributions of the League. In exchange, the ICRC agreed to take into consideration the specific functions of the League, as detailed in Article VII, in its relations with the National Societies. 34

Article VII is completely different from the corresponding Article 8 of 1928, which was limited to a brief definition of the League. The new Article VIII confers upon the League a list of attributions as complete as that given for the ICRC in Article VI, which meant that the two institutions were now treated equally.

It is worth noting that under Article 3 of the Constitution adopted by the Board of Governors at Monaco in October 1950, “the general objects of the League are to encourage and facilitate at all times all forms of Red Cross action for the relief of suffering humanity”. 35 During the negotiations the ICRC had objected to this wording being included in the Statutes of the International Red Cross and succeeded in having the words “all forms of” being deleted and the phrase “Red Cross action for the relief of suffering humanity” being replaced by “humanitarian action of the National Societies”. 36 Accordingly, pursuant to paragraph 2 of Article VII of the draft Statutes submitted to the 18th International Conference, “the object of the League is, within the framework of the present Statutes and subject to the provisions of Article VI, to encourage and facilitate at all times the humanitarian action of the National Societies and to assume the responsibilities incumbent upon it as the federation of those Societies”. 37

Article VIII concerns relations between the two institutions: the ICRC and the League “maintain contact with one another in order to co-ordinate their activities as far as possible and avoid overlapping”. To this end, “there shall be a meeting at least once a month of representatives of the International Committee and of the League”. 38

36 Examenn du projet de révision des Statuts de la Croix-Rouge internationale, cited above.
38 Ibid., p. 127.
In addition, three articles, instead of only one, were now devoted to the Standing Commission, the official title of which became “Standing Commission of the International Red Cross”.

Article IX concerning the composition of the Standing Commission contained only minor modifications, with the exception of making it possible for the Standing Commission to “invite to its meetings, in an advisory capacity and at least one year before the International Conference is to meet, a representative of the National Society which is to be host to that Conference”.  

Article X contains the most important additional elements, confirming the increase in the functions of the Standing Commission under Resolution XIII of the 17th International Conference. Therefore, in addition to preparing the International Conference of the Red Cross and its role as mediator in interpreting the Statutes of the International Red Cross:

3. It shall also be the duty of the Standing Commission between sessions of the Conference to ensure the co-ordination and harmony of the efforts of the International Committee and of the League. With this object in view it shall examine, at its meetings, all questions which are of general interest to the Red Cross and concern the activities of both institutions.

4. In this connection and subject, where necessary, to final decision by the Conference, the Standing Commission shall take any measures which circumstances demand. The independence and initiative of the various bodies of the International Red Cross in their respective spheres shall, however, continue to be strictly safeguarded.

Although in 1948 the ICRC had been fully satisfied with the result obtained in the form of Resolution XIII, since then it had sought – with the backing of the League – to attenuate the provisions of the article, as is apparent from the wording of Article X.

Article XI settles matters of procedure. According to paragraph 5 of the article, the Chairman of the Standing Commission “may appoint one of the elected members to assist him and to act as Secretary of the Commission”. Resolution XIII proposed the creation of a post of Secretary of the Standing Commission. Anxious to avoid this, as such a post risked becoming a permanent feature and gradually turning the Commission into an independent body having managerial functions, the ICRC suggested the aforementioned wording in paragraph 5.

39 Ibid., p. 128.
40 Ibid., p. 128.
41 See above, pp. 77 ff.
42 Examen du projet de révision des Status de la Croix-Rouge internationale, cited above.
Lastly, Article XII confirmed what were called the “three presidents” meetings, which had been held regularly since Stockholm and with which the ICRC was entirely satisfied.\footnote{Idem. Minutes of the plenary meeting of the ICRC held on 7 October 1954 – ICRC Archives, A PV.}

Regarding the Rules of Procedure of the International Conference of the Red Cross, most of the amendments concerned matters of form.

The ICRC was left with a feeling of victory and hoped that the draft of the new Statutes of the International Red Cross, which safeguarded its own special nature and possibilities for action, would be adopted by the 18th International Conference.

Between January and June 1952, three National Societies (those of Greece, Iran and the United States) commented on the new draft Statutes of the International Red Cross, which had been sent out in late December 1951. On 24 July 1952, two days before the opening of the 18th International Conference, the Standing Commission took note of the comments and made final, minor, changes to the draft.

**The 18th International Conference of the Red Cross**

*The political context*

Following the end of the war in Palestine (first half of 1949), the lifting of the Berlin blockade (May 1949) and the end of the Greek Civil War (October 1949), the theatres of conflict moved to the Far East: the first wars of independence erupted, in Indonesia and Indochina, and the People’s Republic of China was proclaimed by Mao Zedong on 1 October 1949. The government of Chiang Kai-shek took refuge in Taiwan, while the presence of American ships in the Formosa Straits prevented the communist forces from dislodging the nationalist forces from Taiwan. On 25 June 1950, the Korean War broke out, opposing the Democratic People’s Republic of Korea (North Korea), which was rapidly supported by the armed forces of Chinese “volunteers” and the Republic of Korea (South Korea), supported by the United States and its allies under the United Nations Command. The Soviet Union and Eastern European countries backed the cause of North Korea and the People’s Republic of China. The Soviet Union, in particular, served as their contact at the United Nations, in which the government of Chiang Kai-shek continued to hold a seat.\footnote{The People’s Republic of China was admitted to the United Nations on 26 October 1971.} In early 1952, North Korea and the People’s Republic of China, followed by all other communist nations, launched a vast campaign accusing the American armed forces of using biological weapons. The ICRC, which had been invited by the United States to set up an independent commission of inquiry, accepted by neither North Korea nor the People’s Republic of China, found itself at the centre of the controversy.\footnote{See below, pp. 500 ff.}
Changing the Conference location

The 18th International Conference was affected by the international situation even before it opened.

In response to an invitation by the American Red Cross, the 17th International Conference had decided that the next Conference would be held in the United States.\(^{48}\) However, in August 1951 the American National Society was forced to withdraw its invitation for reasons beyond its control: it was concerned that some delegates might be refused an entry visa by the United States government, which would go against the Fundamental Principle of universality.\(^{49}\) When it informed the Standing Commission of its decision, the American Red Cross also let it be known that it had made contact with the Canadian Red Cross to ask whether it could take its place. Before accepting the invitation by the Canadian Red Cross, the Standing Commission, on the advice of the ICRC, made inquiries with the National Societies of Australia, Cuba and India, all of which had offered at Stockholm to host the 18th International Conference, whether their invitation still stood. The Indian Red Cross having replied in the affirmative, the Standing Commission at a meeting held on 4 October 1951 found itself having to choose between the National Societies of India and Canada. Through its president, Paul Ruegger, the ICRC let it be known that it was in favour of the Indian Red Cross, considering that it had priority since it had issued its invitation at the 17th International Conference. He also pointed out that the American continent had already been won over to the idea of the Red Cross, whereas there remained work to be done in spreading awareness of the Red Cross and of the Geneva Conventions in Asia. The ICRC, however, was in the minority – as was the chairman of the League, who shared its point of view. A majority of the Standing Commission opted for the Canadian Red Cross, arguing the long distances a majority of National Societies’ would have to travel to New Delhi.\(^{50}\)


\(^{49}\) Letter of 15 August 1951 from the American Red Cross to the League, and telegram of 21 August 1951 from the American Red Cross to the chairman of the Standing Commission. Annex to the note of 22 August 1951 from J. Duchosal to the president of the ICRC concerning the change in the location of the next International Conference. Letter of 28 September 1951 from the president of the ICRC to the head of the Swiss Federal Department of Foreign Affairs, Max Petitpierre – ICRC Archives, B AG 101, 1951–1955, B AG 151-III and 151-I, 1951–1952.

\(^{50}\) Minutes of the Committee’s working session held on 27 September 1951 – ICRC Archives, A PV. Minutes of the Standing Committee’s meeting held on 4 October 1951 – ICRC Archives, B AG 101, 1950–1955.
The matter of participation

Conference participation was also affected by other difficulties.

Under the provisions of the 1928 Statutes of the International Red Cross and the Rules of Procedure of the International Conference of 1930, full members (that is to say those with voting rights) are the representatives of National Societies officially recognized by the ICRC, the delegates of countries parties to the Geneva Conventions of 1949 or earlier (1864, 1906, 1929) and the delegates of the ICRC and the League. The Standing Commission or National Society in charge of convening the International Conference may invite other persons or representatives of organizations as observers (in an advisory capacity only).

Since the 17th International Conference of 1948, three problematic situations had arisen: that of Korea, divided since the end of the Second World War and fought over by the governments of the Democratic People’s Republic of Korea to the north of the 38th parallel and the Republic of Korea to the south; Germany, which in 1949 was divided into the Federal Republic of Germany in the West and the German Democratic Republic in the East; and China, where the People’s Republic of China was proclaimed on 1 October 1949, the government of the Republic of China having withdrawn to the island of Taiwan.

The position adopted by the ICRC was based on two principles: the universality of the Red Cross has to be protected and its purpose, which is to allow impartial, independent humanitarian aid to reach all victims, must be respected. Therefore, all governments or authorities having official power over a territory subject to the Conventions must, under the terms of the Conventions, be invited to take part in the International Conference of the Red Cross and be given voting rights. In matters of this nature, the ICRC may not allow itself to be guided by political considerations.

The Standing Commission, as the authority competent to draw up the list of invitations, agreed with the ICRC’s position, deciding to invite as members with full voting rights the two governments of Korea, the two governments of Germany and the two governments of China. As to the National Societies, the Chinese Red Cross based in Beijing, already regarded by the ICRC as the rightful successor of the National Society recognized in 1912, was invited as a full member. The Societies of North Korea,

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51 The country names reflect usage at the time and are of no political significance.
52 Minutes of the meetings held on 10 January, 21 February and 6 March 1952 of the Presidential Council and the plenary meeting of the ICRC held on 20 March 1953 – ICRC Archives, A PV.
53 By virtue of Resolution XII, which approved the policy followed by the ICRC regarding the recognition of National Societies during the war, the 17th International Conference had also approved that “the International Committee of the Red Cross in having considered, immediately upon cessation of hostilities, that National Societies – which had returned to their liberated and independent territory and were recognized by their Government, which had itself returned to its own soil – should benefit by the recognition granted by the International Committee of the Red Cross before hostilities, subject only to their Articles of Association still conforming to the conditions for recognition”.

2. Toronto, Canada, 1952. ICRC delegation at the 18th International Conference of the Red Cross. Emile Sandström, president of the League, is standing at the centre. To his left are Jean Pictet and Paul Ruegger, and to his right Roger Gallopin.

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South Korea, the Republic of China and the Federal Republic of Germany – which had not been formally recognized – in contrast, were invited as observers.

The German Red Cross of the Federal Republic of Germany, recognized on 26 June 1952 by the ICRC and admitted to the League on 24 July 1952, eventually participated as a full member in the 18th International Conference. It should be noted that at the time, to the ICRC’s knowledge, the German Democratic Republic contained only local Red Cross groups yet to be organized at the national level.\(^54\)

In view of the political context and the recent campaign of defamation launched by communist countries and pacifist circles in the context of the Korean conflict, the ICRC expected to have to face attacks and defend its traditional position of impartiality and neutrality. At the same time, it was also concerned that the International Red Cross as a whole would be at risk, either on the occasion of the adoption of the Statutes or in connection with the matter of participation.\(^55\)

**The opening of the conference and withdrawal of the Republic of China**

The 18th International Conference of the Red Cross met in Toronto, home of the Canadian Red Cross’s headquarters, from 26 July to 7 August 1952. In keeping with tradition, it was chaired by a member of the host National Society, in the person of John MacAulay, Counsellor to The Queen and outgoing president of the Canadian Red Cross central committee. The Conference was attended by 55 government and 51 National Society delegations from 62 countries.\(^56\) This time the Soviet Union and Eastern European countries, which had been absent from the Stockholm Conference, were present. Not only that, the Soviet delegation was even headed by Vassily Matveevitch Zonov, the Soviet Union delegate to the United Nations,\(^57\) whereas the United States and United Kingdom, in addition to five other Western nations,

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\(^{55}\) Minutes of the meeting of the Presidential Council held on 15 May 1952 – ICRC Archives, A PV. Letter of 12 March 1952 from the President of the ICRC to the Swiss Federal Department of Foreign Affairs – ICRC Archives, B AG 151, 1951–1952.

\(^{56}\) Australia, Austria, Belarus, Belgium, Brazil, Bulgaria, Canada, Chile, Colombia, People’s Republic of China, Republic of China, Costa Rica, Cuba, Czechoslovakia, Denmark, Dominican Republic, Ecuador, Finland, France, Federal Republic of Germany, Greece, Haiti, the Holy See, Hungary, Iceland, India, Indonesia, Iran, Ireland, Israel, Italy, Japan, Democratic People’s Republic of Korea, Republic of Korea, Lebannon, Liechtenstein, Mexico, Monaco, the Netherlands, New Zealand, Nicaragua, Norway, Pakistan, Peru, Philippines, Poland, Portugal, Romania, El Salvador, Spain, Sweden, Switzerland, Thailand, Turkey, Ukraine, Union of Soviet Socialist Republics, Union of South Africa, United Kingdom, United States of America, Uruguay, Venezuela, Yugoslavia.

\(^{57}\) V. M. Zonov was chief adviser to Yakov Malik, the Soviet Union’s permanent representative on the Security Council, who played a major role in the campaign accusing the United States of using biological weapons against North Korea and in China.
decided to send observers only, hoping in this way to avoid a communist-led political onslaught that could but harm the International Red Cross.\footnote{New York Times of 19 July 1952, Neue Zürcher Zeitung of 21 July 1952 and Le Monde of 29 July 1952 – ICRC Archives, B AG 151-II, 1951–1952.} The two Chinese governments, the two Korean governments and the Federal Republic of Germany sent delegations, but the German Democratic Republic did not. The ICRC delegation, made up of 12 members, was headed by President Paul Ruegger.

From the first plenary session onward, the delegation of the government of the People’s Republic of China proposed a motion calling for “the remnant element of the Chinese Kuomintang, at present seeking refuge in Formosa (...) should be excluded from the Conference forthwith”.\footnote{XVIIIth International Red Cross Conference, Toronto, July–August 1952, Proceedings, Canadian Red Cross, Toronto, pp. 48–49 – ICRC Library.} The delegation of the Republic of China in turn protested the participation “of the Chinese communist puppet regime and the so-called Red Cross Society of Peiping”.\footnote{Ibid., pp. 53–54.} It further protested against the fact that the Chinese Red Cross of Taiwan should have been invited in an advisory capacity only. On the proposal of the chairman of the 18th International Conference, a study of the protests concerning invitations extended to certain governments and Societies was postponed to the second plenary session to allow the time needed for them to be made available to the Conference Bureau.

At the second plenary session, the chairman of the Standing Commission, Ambassador François-Poncet, informed the Conference of the protests submitted to the Commission concerning invitations. On the one hand, the government of the People’s Republic of China and the Chinese Red Cross at Beijing were opposed to the participation of the government and Red Cross of the Republic of China in Taiwan. On the other hand, the Commission received some 40-odd messages protesting the presence of the People’s Republic of China at the Conference.\footnote{Message of 28 June 1952 from the president of the Chinese Red Cross at Beijing to the chairman of the Standing Commission, document S 7, and protest by Dr Su Ching Kuan and Ms Li Tehchuan against the Standing Commission’s decision, document P-14, dated 29 July 1952 – ICRC Library, collection relating to the 18th International Conference of the Red Cross. The collection also includes the other protests.} Ambassador François-Poncet explained the rules on the basis of which the Standing Commission invited governments and National Red Cross Societies. Regarding the latter, he pointed out that “the Peking National Red Cross society, continuing, as it does, to carry out Red Cross activities in the territory of continental China, has been recognized by the International Committee and by the League as the \textit{de facto} successor of the Chinese Red Cross. It was accordingly invited as a member with full voting rights. The activities of the Formosa Red Cross are limited to Formosa; this Society cannot, therefore, claim to be the Chinese Red Cross.”\footnote{XVIIIth International Red Cross Conference, Toronto, July–August 1952, Proceedings, op. cit., p. 58.} Consequently, the Formosan Red Cross was invited in an advisory capacity. He went on to recall that the seventh condition
for recognition stipulates that, to be recognized, a National Society must extend its activities to the entire territory of its country. Lastly, the chairman of the Standing Commission recalled that the Red Cross could not enter into discussions on the legality, or otherwise, of one government or another, since by doing so it would enter the field of politics.

Some 15 delegations addressed the Conference on this matter. While some of them, citing the spirit of the Red Cross, expressed their opposition to any form of exclusion, others, especially those from communist countries, delivered statements heavy with political considerations. As a member of the Standing Commission, the ICRC, like the League, supported the decision of the Commission. The ICRC president pointed out that that this decision ensured the presence at the Conference of “all the authorities and Red Cross organizations who are actually in a position to apply the Geneva Conventions and to carry out Red Cross activities in a territory. Such a solution alone is in conformity with the principle of the universality of the Red Cross and with humanitarian requirements.”

All speakers having been heard, the Bureau of the Conference withdrew to deliberate. When the session was resumed, the Bureau submitted a proposal stating that “the action taken by the Standing Commission in extending invitations to both Governments and Societies and indicating the respective capacities in which they should attend should be confirmed.” The proposal was moved and the motion adopted by 58 votes to 25 and 5 abstentions.

Nonetheless, the above vote prompted the Republic of China to withdraw from the Conference after its protest against the participations of the government and Red Cross of the People’s Republic of China was not accepted by the Conference – even though the Bureau of the Conference asked it to reconsider its decision.

**Attacks on the ICRC and further business**

Politics continued to intrude into Red Cross business throughout the 18th International Conference, which was marked by the violence of the attacks of communist countries – led by the Soviet Union and the People’s Republic of China – against the ICRC, and by these nations’ clear intent to use the Conference as a forum for spreading its allegations against the use of biological warfare by United Nations – and especially United States – forces in Korea.

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66 Report by President P. Ruegger on the Toronto Conference, plenary meeting of the ICRC of 27 August 1952 – ICRC Archives, A CL 20.003.03.
Following the first two plenary sessions, the 18th International Conference split into commissions, as was the custom, to examine the various items on the agenda, before presenting reports and draft resolutions for adoption by a full meeting of the Conference. It is worth noting that representatives of the press were admitted to both the plenary sessions and the sessions held by the commissions.

The General Commission, chaired by André François-Poncet, was the main scene of diatribes, triggered by the presentation of the ICRC’s report on its activities from 1948 to 1952, the debate on the financing of the organization, the item on the Geneva Conventions of 1949 and their application and, lastly, the revision of the Statutes of the International Red Cross. Adopting what the president of the South African Red Cross called “battering ram” tactics, the delegations of communist countries renewed their attacks at every session, always putting forward the same arguments, and, during the final plenary session, again proposing the draft resolutions rejected in the Commissions. However, although a Conference Bureau directive called for political speeches to be freely permitted during commission sessions, in plenary meetings the chairman Conference cut short any speeches not directly concerned with the subject of the debate.

Regarding the revision of the Statutes of the International Red Cross, two matters were referred to the General Commission: on the one hand, the draft of the Standing Commission, on the other, a series of amendments submitted by the delegations of the Red Cross Societies of Czechoslovakia, Poland, Romania and the Soviet Union, concerning the very structure of the International Red Cross. Notably, these amendments sought to reduce the position of the ICRC within the International Red Cross to a minimum, by suggesting either to delete all references to the ICRC from the Statutes or to replace such references with the name of the League, except where mentioned as a member of the International Red Cross. In fact, the proposed changes were not modifications of the draft of the Standing Commission but amendments of substance which, pursuant to Article 11 of the Statutes in force at the time, would have had to be submitted six months before the Conference. Nonetheless, the Conference agreed to enter into discussion, in agreement with the ICRC, which decided not to raise a point of procedure despite the fact that its very existence was at stake, as it preferred all participants to be free to discover the intentions of the communist camp.

68 Ibid., p. 108.
70 Document P-8 of 24 July 1952 – ICRC Library, collection relating to the 18th International Conference of the Red Cross.
71 According to Article 11, “any proposal for the revision of the Statutes must (...) be placed on the Agenda, and at least six months’ notice of it given to the National Societies, the International Committee of the Red Cross and the League of Red Cross Societies”.
72 Precis Minutes of the Legal Sub-Commission, Second Meeting. Transmission of the radio broadcasts of Tuesday, 5 August 1952 – ICRC Archives, B AG 151-II and 151-I.
The communist delegations contested the international nature of the ICRC, which, in their view, represented no one and nothing compared with the League, which represented over 70 countries. They also denounced its lack of impartiality and engaged in violent attacks focusing on the Second World War and even targeting some of the ICRC’s delegates, including Dr Lehner, now head of delegation in South Korea. The attacks were made despite the fact that in the course of a visit by the ICRC president, Paul Ruegger, to Moscow in November 1950, the Soviet Alliance of Red Cross and Red Crescent Societies had declared groundless grievances already voiced in this respect, in view of the extensive reports submitted by the ICRC at Stockholm, which the Alliance had since had the time to study. The ICRC was further accused of taking sides in the Korean conflict as regarded both the fate of prisoners of war in the hands of the United Nations Command and the American request for an inquiry into the biological warfare allegations. The fact of having given consideration to this request while not having acted in response to protests from communist-aligned organizations was considered servile. As a result, the Red Cross Societies of Eastern Europe and countries in communist Asia opposed the adoption of the new Statutes which they considered to extend the ICRC’s attributes at the expense of the League, for example by conferring upon it the right to recognize new National Societies.

The other delegations, in contrast, came to the defence of the ICRC, as did the chairman of the League, Emile Sandström. Referring to the remark made by the Soviet Alliance of Red Cross and Red Crescent Societies, according to which the ICRC did not represent anyone, he declared: “The Committee does not represent anybody, it does not represent any particular interest; it just represents an idea, and an ideal – the Red Cross idea, the Red Cross ideal – and that, I think, is its great merit. It represents the spirit of the Red Cross and therefore it ought also to be maintained in the functions it has got.”

Despite the fact that their amendments were successively rejected first by the Legal Sub-Commission – constituted by the General Commission for studying in particular this question – and then by the General Commission, the delegations of communist countries reiterated their opposition before the Council of Delegates, to which had been submitted the draft Statutes revised by the Standing Commission under Article 11 of the 1928 Statutes, and then by the 18th International Conference in plenary session, declaring that they would “not consider themselves bound by the articles endowing the so-called ICRC with rights and functions which can be granted only to an international organization.” The draft revised Statutes of the International

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73 See Introduction, p. 29.
74 Report by Paul Ruegger on the Toronto Conference, cited above.
75 *Idem.*
76 *XVIIIth International Red Cross Conference, Proceedings*, op. cit., pp. 97–98.
Red Cross and the Proceedings of the International Conference of the Red Cross were eventually adopted by 70 votes to 17, without abstentions.\footnote{Ibid., pp. 102, 169 ff. and 173 ff.}

Furthermore, the Red Cross Society of the People’s Republic of China used the 18th International Conference as an occasion to revive the biological warfare controversy. Among other things, it attempted to persuade the Conference to examine certain pieces of evidence, which the latter refused, arguing that these were unilateral and, especially, that the Conference was not a tribunal. It pointed out that, according to the Statutes of the International Red Cross, the body competent to investigate complaints about alleged violations of the Geneva Conventions was the ICRC.\footnote{Article 7(3) of the 1928 Statutes. Article VI(4) of the Statutes adopted by the 18th International Conference.} On two occasions, first by the General Commission then in plenary session, the Conference rejected a draft resolution proposed by the Chinese Red Cross, accusing the United States of violating the Conventions. It did, however, by a majority vote adopt a general resolution on alleged violations of the Geneva Conventions (Resolution 19), as follows:

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considering that several delegations have alleged that the Geneva Conventions and humanitarian principles have recently been violated and that these allegations have repeatedly and categorically been denied by those against whom these allegations were directed,

invites the Governments concerned to have these charges examined on the basis of a common agreement,

invites National Societies to unite their efforts, as soon as possible, for this purpose and to promote practical proposals to that end.\footnote{XVIIIth International Red Cross Conference, Proceedings, op. cit., p. 150. For the debates, see pp. 106–113 and 120–129.}

Initially the above resolution had mentioned the role of the ICRC in the constitution of a commission of inquiry enjoying the trust of both parties. As the delegations of communist-bloc nations had declared that they would vote against the resolution because it mentioned the ICRC, the ICRC requested that it not be referred to by name, to facilitate adoption of the text. Nevertheless, the delegations in question remained opposed to the resolution, which, in the eyes of the ICRC, demonstrated that they were against the very principle of an impartial inquiry.\footnote{Report by Paul Ruegger on the Toronto Conference, cited above. Minutes of the plenary meeting of the ICRC held on 23 October 1952 – ICRC Archives, A PV. Precis Minutes of the Legal Sub-Commission, Second Meeting. Transmission of radio broadcasts of Tuesday, 5 August 1952 – ICRC Archives, B AG 151-II.}

Following a proposal submitted by the Polish Red Cross, the 18th International Conference further adopted a resolution urging all governments – notably the United
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States – having not yet adhered to or ratified the Geneva Protocol of 17 June 1925 concerning the prohibition of asphyxiating, poisonous or other gases, and of bacteriological methods of warfare, to do so (Resolution 17).  

Further resolutions were adopted concerning the conflict in Korea, prisoners of war (Resolution 21), assistance to the civilian population in Korea (Resolution 28), and the application of the Geneva Conventions of 1949 (Resolution 16), which considers in particular that it is the duty of States bordering a territory in which a conflict is taking place to facilitate in every way the application of the Conventions and assistance to the victims. The above resolutions and their context are examined in greater detail in the chapter on the Korean War.

Faced with the virulent attacks against it in the General Commission, the ICRC issued a statement in which it recalled its activities and failures during the Second World War, pointed out that it was carrying out some of its traditional activities in South Korea but had been unable to do so in North Korea despite two years of constant attempts, and then put the following question to the Conference:

If the International Committee of the Red Cross is no longer wanted, is that because of what it has done, or because of what it was unable to do? If it is because of its failures, only the governments and authorities which closed the doors of concentration camps to the Red Cross, or which denied the delegates of the International Committee access to their territory, can say why they acted the way they did. They alone are responsible. Yet is it not curious that those who most strongly reproach the International Committee of the Red Cross for having done nothing for the detainees of concentration camps (...) are those who, more than anyone, should know that the International Committee of the Red Cross cannot force open doors, that it can do nothing without the consent of governments and without help from those having the material means to facilitate its work. They should know this better than anyone because their own governments prohibit representatives of the International Committee of the Red Cross from gaining access to their territories (...). Yet if there are those who want to do away with the International committee of the Red Cross because of what it did, what does that mean? Does it mean that they no longer wish for the International Committee of the Red Cross to continue its traditional activities? Or is it because the specific neutrality of the Red Cross bothers them, that they are frightened by its impartiality?

The ICRC further submitted to the 18th International Conference a detailed, 18-page memorandum in which it categorically refuted the accusations against it, pointing out

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83 XVIIIth International Red Cross Conference, Proceedings, op. cit., p. 150.
84 Ibid., pp. 150, 151 and 158.
85 See below, pp. 506, 532 and 534.
that most of them merely repeated the false allegations made shortly after the Second
World War.\textsuperscript{87} The ICRC document was widely cited in the Western press.

The ICRC president also addressed the General Commission on the subject of peace
and the Red Cross. At a time when the topic of peace was one of the pillars of commu-
nist propaganda, he recalled the unknown fate of hundreds of thousands of missing
persons in the Soviet Union and noted that the power of the Red Cross to promote
peace lay not in words but in action and in respect for the Geneva Conventions. His
remarks promptly triggered an angry outburst by an Alliance representative.\textsuperscript{88}

In the end the ICRC’s report on its activity from 1948 to 1852 was accepted at the
final plenary sessions by a majority (Resolution 2 by 65 votes to 15), as was the motion of
confidence triggered by the attacks against it (Resolution 12). A resolution was further
adopted to continue the Commission for the financing of the ICRC (Resolution 8).\textsuperscript{89}
During the debate on the financing of the ICRC by the General Commission, the
president of the ICRC had been moved to declare that “it was more than inconvenient
that States which, like the Soviet Union, had not paid a single cent in contributions,
should dare say that ‘in future they would not give financial support to the ICRC’”.\textsuperscript{90}

Among the resolutions of particular interest to the ICRC, the following are worth
noting: Resolution 15 on the ratification of the Geneva Conventions of 12 August
1949, urging the signatory States to hasten ratification of the Conventions,\textsuperscript{91}
Resolution 20 on the release of detained persons, which called on National Societies
to act as intermediaries with their respective governments to facilitate the liberation of
persons still prevented from returning to their homes in the aftermath of the Second
World War, the seeking of information concerning the fate of such persons and the
possibility of dispatching relief to them.\textsuperscript{92} Lastly, Resolution 14 invited the ICRC to
continue its coordination function in the field of legal assistance to refugees.\textsuperscript{93}

A resolution was also adopted on atomic weapons (Resolution XVIII), which none-
theless weakened that adopted on this subject at the 17th International Conference at
Stockholm (Resolution XXIV).\textsuperscript{94} The draft initially submitted by the Alliance called for
the effective, immediate and unreserved prohibition against the use of atomic weapons
and called on National Societies to request their respective governments immediately

\textsuperscript{87} Reply of the International Committee of the Red Cross to certain accusations concerning
its activity, Document A-109 of 29 July 1952 – ICRC Library, collection relating to the 18th
Committee of the Red Cross (January 1 to December 31, 1952), Annex III, pp. 94–114.

\textsuperscript{88} Document A-135 of 31 July 1952 – ICRC Library, collection relating to the 18th International
Conference of the Red Cross, Report of Paul Ruegger on the Toronto Conference, cited above.

\textsuperscript{89} XVIIIth International Red Cross Conference, Proceedings, op. cit., pp. 147, 151 and 148. By compar-
ison, the resolutions concerning the report on ICRC activity during the Second World War and the
financing of the League were accepted unanimously.

\textsuperscript{90} Report by Paul Ruegger on the Toronto Conference, cited above.

\textsuperscript{91} XVIIIth International Red Cross Conference, Proceedings, op. cit., p. 150.

\textsuperscript{92} Ibid., p. 151.

\textsuperscript{93} Ibid., p. 149.

\textsuperscript{94} See p. 257 below.
to conclude a convention to this effect. The delegation of the British government had presented amendments aimed at bringing the text of the resolution in line with the plan presented by Western States to the United Nations Disarmament Commission, which gave priority to prior international monitoring, refused by the Soviet Union.\footnote{Documents A-113 and A-139 of 29 and 31 July 1952 – ICRC Library, collection relating to the 18th International Conference of the Red Cross.}

In a spirit of appeasement, the Belgian Red Cross at the final plenary sessions proposed a text stripped of all political references, which called on governments “to conclude an agreement which would ensure the rapid prohibition, without reservations, of the use of atomic weapons”,\footnote{XVIII\textsuperscript{th} International Red Cross Conference, Proceedings, op. cit., p. 131.} without making any statement about the means for doing so. The ICRC voted for this text which, however, like the Soviet amendments, was rejected in favour of the British proposal.\footnote{Ibid., pp. 124–130. Report by Paul Ruegger on the Toronto Conference, cited above. Minutes of the plenary meeting of the ICRC held on 23 October 1952 – ICRC Archives, A PV.}

In Resolution 18, the 18th International Conference “urges Governments to agree, within the framework of general disarmament, to a plan for the international control of atomic energy which would ensure the prohibition of atomic weapons and the use of atomic energy solely for peaceful purposes” and “calls upon all National Societies to request their respective Governments to support such a plan”.\footnote{XVIII\textsuperscript{th} International Red Cross Conference, Proceedings, op. cit., p. 150.}

In Resolution 10, submitted jointly by the British and Brazilian Red Cross Societies, the 18th International Conference:

a) reaffirms the fundamental principles of the Red Cross (…)
calls upon all National Societies to adhere strictly to these principles in order to maintain the tenets of impartiality; political, racial, religious and economic independence; universality of the Red Cross; and equal rights of National Societies, which are the cornerstones of the Red Cross movement;

b) noting the useful results which have been achieved by the Conference despite the introduction in certain cases of political issues,
expresses its determination not to allow such issues to undermine the work of the Red Cross at any time,
declares its unabated faith in the Red Cross as a movement concerned solely with humanitarian activities which help to promote mutual understanding and good will among nations whatever their political differences.\footnote{Ibid., p. 148.}

When proposing the above Resolution, the delegate of the British Red Cross denounced the failed attempt “by a minority group” to discredit the ICRC in particular and the Red Cross Movement as a whole, by violating the fundamental principle of political neutrality.\footnote{Ibid., p. 137.} In the same vein, the president of the American Red Cross declared that “the
trial is over. I submit (...) that the great majority of us have kept the faith. The efforts of those who abused the purposes of this Conference have been rebuffed. (...) the decisions of this Conference will reassure a tormented world that the Red Cross as a symbol of mercy will be preserved and that the ideals of the Red Cross shall be maintained inviolate.¹⁰¹

Before closing the debates, the 18th International Conference appointed the five members of the Standing Commission (in addition to the two ex officio representatives of the ICRC and the League).¹⁰²

Lastly, the Conference accepted an invitation from the Indian Red Cross to host the 19th International Conference of the Red Cross.

**Conclusion**

In Stockholm, the absence of Eastern European countries had facilitated a positive outcome of the 17th International Conference. Their presence at the Toronto Conference, in contrast, confirmed the direst predictions: far from signalling a détente, the main purpose had been to spread propaganda on biological warfare in Korea.

Alarmed by the turn of the debate at the 18th International Conference, several delegations wondered whether the relentless attacks by the communist bloc might not succeed in destroying the Red Cross. The press and radio echoed this concern in headlines such as “Le glas a-t-il sonné à Toronto?”¹⁰³

In his closing address the president of the ICRC, Paul Ruegger, struck a reassuring tone: speaking about the positive outcomes, he recalled that the Conference had reaffirmed the principles of the Red Cross and confirmed the structure of the International Red Cross. Regarding the criticisms and attacks, he reminded participants that “the life of the Red Cross – of the Red Cross in its essence – does not hang upon an International Conference. It is not a Conference that brought it to life and it is not a Conference that can kill it. (...) Today the millions of servants who, in all the countries of the world, anonymously devote themselves to the relief of human suffering, do not await the results of the Conference before continuing to dress wounds, build hospitals, prevent disease or visit prisoners of war. And, in the unlikely event of our framework coming to disappear some day, the morrow would find hearts still going out in compassion and hands still quick to heal. Compassion for human distress and care for suffering man, whoever he may be – that is what the Red Cross is, and only that.”¹⁰⁴ He went on to point out that, during the two years in which the Korean War had been dividing the world, the principles of the Red Cross had been safeguarded in their entirety, the 18th International Conference having manifested

¹⁰¹ Ibid., p. 138.
¹⁰² The mandates of A. François-Poncet (France), J.T. Nicholson (United States) and T.W. Sloper (Brazil) were renewed and two new members appointed: Amrit Kaur (India) and Boris Pachkov (Soviet Union).
¹⁰³ Le Figaro, 28 August 1952. See also the article by F. Siordet in RICR, No. 405, September 1952, pp. 755–763. All comments in the press relating to the 18th International Conference are part of the ICRC Archives file B AG 151-II, 1951–1952.
¹⁰⁴ XVIIIth International Red Cross Conference, Proceedings, op. cit., p. 141.
an unwavering will to carry on universally the Red Cross’s work of solidarity. “In this respect,” he continued, “it may perhaps some day be said of the XVIIIth International Red Cross Conference that it was one of those great meetings that permitted our universal ideal, formulated nearly a century ago, to withstand the ordeal by fire.”

In his report to the plenary meeting of the ICRC, Paul Ruegger did, however, also make reference to the “rather unpleasant” aspect of the 18th International Conference: the constant attacks by the communist delegations, which tried the other participants’ patience to the limit. He also noted the initial lack of organization of the Western camp. For instance, at the start of the Conference the president and delegation of the ICRC were virtually alone in resisting the attacks against the ICRC. Finally, towards the end, a group of Western delegations including those from South America took a stand and reaffirmed the principle of the Red Cross, defended the ICRC, reiterated their trust in the organization, and arrived at a clearer position on the allegations concerning biological warfare. Ruegger further took pleasure in informing the meeting of the solidarity of the chairman of the League, Emile Sandström, who gave his unwavering support to the ICRC.

According to the ICRC president, with whose analysis the Western press was in broad agreement, the attacks by communist countries were evidence of their fear of the ICRC’s impartiality. Their purpose had been to discredit the ICRC as an impartial body, yet their authors had taken care to propose or accept an impartial inquiry. By pretending to discredit the organization, they sought to do away with the function it carried out. Lastly, instead of damaging the ICRC, the violence of the attacks prompted others to be sympathetic towards it, such that, with the exception of the perpetrators, the entire International Red Cross rallied to its defence. However, a senior member of the organization did point out that the significance of the attacks should not be underestimated, since they showed that a part of the world was refusing to allow the ICRC do carry out its mandate to protect and assist the victims of war.

Fifty years later we can safely state that the main outcome of the 18th International Conference of the Red Cross was the revision of the Statutes of the International Red Cross, which remained in force for over 30 years and the substance of which, as regards the division of functions among the different components and statutory bodies of the Red Cross Movement, was confirmed during the revision of 1986.

105 Ibid.
108 Letter of 16 September 1952 from J. Duchosal to A. Escher, minister plenipotentiary of Switzerland in Iran – ICRC Archives, B AG 151-III.
The Second World War resulted in some 50 million casualties and thus proved to be three to four times deadlier than the First World War. Another hallmark was that more than half of the victims were civilians, whereas in the 1914–1918 conflict most casualties had been members of the armed forces.1

The Second World War was a “total war” by virtue of not only its extent and the military, technical, scientific and economic means deployed to wage it, but also its ideological and cultural dimensions. A small number of neutral countries (Ireland, Portugal, Spain, Sweden and Switzerland) aside, it affected all of Europe, Northern and East Africa and the Middle and Far East, and spread to most seas and oceans. It stood out by the massive bombardment of cities designed in particular to demoralize

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their populations; the “burned earth” strategy pursued on the Eastern Front; partisan warfare and civilian reprisals; widespread mobilization of the population, with Germany not hesitating to use millions of prisoners of war and civilian deportees as forced labour; population movements on an unprecedented scale; the use of nuclear weapons against the cities of Hiroshima and Nagasaki in Japan and, most horrifically of all, the genocide of 5.1 million Jews\(^2\) and hundreds of thousands of gypsies and other victims in Nazi concentration and extermination camps.

In Europe, the most heavily affected nations were those of Eastern Europe. In absolute numbers, the Soviet Union suffered the largest number of casualties, with 20 to 25 million dead, or 10 to 12 per cent of its population. Proportionally, however, Poland suffered the most with some six million dead, equivalent to around 20 per cent of its population. Of these six million, approximately 600,000 died in combat, most of the remaining casualties, and in particular three million Jews, having been exterminated in concentration camps. In Yugoslavia, too, more than 10 per cent of the population – 300,000 soldiers and 1.2 million civilians – lost their lives. In Germany, seven million people, equivalent to around 6 per cent of the population, died; of these, four million were soldiers, some three-quarters of whom lost their lives on the Eastern Front, and three million were civilians. In Western Europe, hundreds of thousands of people died in countries including France (600,000), the United Kingdom (300,000) and Italy (440,000).

The United States deplored the loss of a total of 300,000 combatants in its European, African and Asian theatres of operation. Although one of the main warring nations, it was the only country whose territory was spared, and which grew more prosperous during the war.

The number of casualties in Asia has been estimated at between six and eight million for China, and three million for Japan.

War and occupation left deep and painful scars: the loss of life, destruction of property, impoverishment, the breakdown of moral values, feelings of bitterness against the invader and the ideological fault lines that arose within nations following the end of the Grand Alliance and the onset of the Cold War.

As far as the ICRC was concerned, the decentralized structure, set up towards the end of the war and subsequently adapted as the military situation changed, enabled it to make contact with the different authorities and to pursue its mission.\(^3\)

At the ICRC, the end of hostilities by no means meant the end of activities. In a circular letter sent out on 5 September 1945 to the National Red Cross Societies

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\(^3\) At the end of the war, the ICRC had established independent delegations in the different occupied zones in Germany and Austria, increased the number of staff present in the main Allied nations and created new delegations in liberated countries. See also Report of the International Committee of the Red Cross on its activities during the Second World War (September 1, 1939–June 30, 1947), Vol. I, “General Activities”, ICRC, Geneva, 1948, pp. 78–83.
concerning the end of the hostilities and the future work of the Red Cross, Max Huber, then President ad interim of the ICRC, stated:

The frontlines have ceased to exist; the victorious Powers are free to go wherever they wish. One might think that there is no longer a need for the specific role of the International Committee of the Red Cross, of serving as a neutral intermediary to make it possible to carry out humanitarian activities between belligerents separated by hostilities. In reality, however, this role is far from having served its purpose everywhere, especially now that the Protecting Powers have partly ceased playing theirs. As long as there are prisoners of war and occupied territories there will be situations in which an institution dependent on neither the victors nor the vanquished and pursuing exclusively humanitarian objectives, without being fettered by political ties, will serve a purpose (...). True, [the ICRC] does not claim to be a substitute for other, more powerful organizations that might be capable of carrying out the work on behalf of the victims of war that until now has been done by the ICRC, but more effectively and on a larger scale. However, until the day that is the case in all the areas accessible to the ICRC, the International Committee must remain ready to do its work, on the condition that it continues to be provided with the necessary resources.

Firstly, therefore, the ICRC considered that it had an obligation to complete what it regarded as its essential mission: to assist prisoners of war and civilian internees. Secondly, it was of the opinion that, even after the cessation of hostilities, it was important to continue to work for the civilian populations in occupied territories “for reasons of a psychological nature”, which justified the existence of a neutral intermediary between the occupying powers and these populations. In this regard Max Huber further pointed out that, during the war, 95 per cent of relief had benefited the Allies, especially in the occupied territories. In the interest of the principle of impartiality, however, of which Max Huber believed it was important to take a global, long-term view, there was no reason why the ICRC should not continue to take an interest in the populations of newly occupied nations. Lastly, referring to Article 7 of the Statutes of the International Red Cross of 1928, according to which, “in peacetime, it shall work for the relief of distress considered to be result of war”, the ICRC believed that it had the authority to pursue or initiate actions in which its intervention as a neutral organization was of use, especially whenever such interventions were the only way of making an action possible. It did, however, leave to other organizations any activities that could be carried out satisfactorily without its assistance.

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5 On the concept of the protecting power, see footnote 32, p. 217 below.

So much for policy, then. In reality, however, the ICRC came up against numerous political and financial obstacles to its work.

Regarding prisoners of war, the Allied powers organized the repatriation of their own nationals without help from the ICRC. The ICRC, however, had to take care of millions of detainees, especially German and Japanese people, whose very status as prisoners of war was disputed by the Allies. As the German and Japanese governments had ceased to exist, they were no longer able to carry out their function as powers of origin. The role of the ICRC as neutral intermediary between the power of origin and the detaining power was thus unilaterally eliminated, as reciprocal interest was no longer a catalysing element with the detaining powers and public opinion in Allied countries had become disinterested in the fate of prisoners of war. On the contrary, as the Nuremberg trials were unfolding and the full extent of Hitler’s crimes became known, the ICRC’s work on behalf of German prisoners of war confirmed the received idea that it protected criminals while having done almost nothing for resistance fighters and concentration camp detainees. As to those parties who did remain interested in the ICRC’s work, they were no longer able to offer material assistance.

This shortage of resources also limited the ICRC’s assistance to civilian populations, all the more so since, at the same time, the organization’s role in this area was hotly contested within the International Red Cross.

Regarding displaced persons, the ICRC focused its efforts on those who could not or would not be repatriated and on categories of persons excluded from the mandate of the United Nations Relief and Rehabilitation Agency and the International Refugee Organisation, such as Volksdeutsche.

As a result, the ICRC found itself in a position where it worked primarily for those who were perceived by the Allied powers and public opinion of the Allied nations to be the “wrong type” of victim. As Max Huber pointed out at the time, it entered “its ‘Franciscan’ period, having to come to the aid of all those the world had cast aside.” This explained in part the ICRC’s isolation and lack of popularity in the years immediately following the war.

* * *

An exhaustive account of ICRC activities during this period being beyond the scope of this book, the following pages will focus on the situation in Europe, where the ICRC carried out most of its work on behalf of the victims of the Second World War and its aftermath, even though it was also active on other continents.

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7 For the financial situation of the ICRC, see pp. 19 ff.
8 See in particular pp. 44 ff.
9 On this subject, see below, pp. 149 ff.
10 Minutes of the plenary meeting of the ICRC held on 3 January 1946 – ICRC Archives, A PV.
In the final stages of the war, millions of soldiers fell into the hands of the Allied powers, swelling the ranks of prisoners of war already in their power. Although most of them were Germans and Japanese, their numbers also included nationals of the other members of the Axis Alliance: Italians, Austrians, Hungarians, Romanians and Bulgarians. There were even some, albeit a minority, from Allied nations enlisted voluntarily or by force in the *Wehrmacht* and captured in German uniform. With the exception of the Soviet Union, in which it had not been permitted to carry out a single activity during the war, the ICRC was authorized to start or pursue its traditional activities for prisoners of war and for civilian internees, who were treated similarly to prisoners of war.

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1 The number of German soldiers taken prisoner of war during or after the Second World War is generally estimated at 10 million. Immediately after the war, some 3.3 million prisoners of war were in the East, primarily the Soviet Union (3.1 million) and in Yugoslavia, Czechoslovakia and Poland, and 7.6 million were in the hands of the Western powers, of which 3 million were held by the United States, 3.6 million by the United Kingdom and almost 1 million in France, Belgium, the Netherlands and Luxembourg. For more information, see Kurt W. Böhme and Helmut Wolff, *Aufzeichnungen über die Kriegsgefangenschaft im Westen*, Verlag Ernst und Werner Gieseking, Bielefeld, Munich, 1973, and K.W. Böhme, “Die deutschen Kriegsgefangenen in sowjetischer Hand – Eine Bilanz”, Munich, 1966, in Erich Maschke (ed.), *Zur Geschichte der deutschen Kriegsgefangenen des Zweiten Weltkrieg*. François Cochet, *Soldats sans armes, La captivité de guerre: une approche culturelle*, Bruylant, Brussels, Librairie Générale de Droit et de Jurisprudence, Paris, 1998. According to Jonathan F. Vance (ed.), *Encyclopedia of prisoners of war and internment*, ABC-CLIO, Santa Barbara, 2000, 8.25 million German and Italian prisoners of war fell into the hands of the Allied forces (p. 341) and 2 million prisoners of war from the Axis powers, excluding German nationals, were taken captive by the Soviet Union (p. 329).

2 When the hostilities ceased, the American military authorities in the Far East found themselves responsible for the repatriation of 6.5 million Japanese citizens, of whom some 3.5 million were soldiers and 3 million civilians. In addition, there were 550,000 Japanese under the control of the British forces, without counting the prisoners held by the Soviet Union. For further details, see *RICR*, No. 330, June 1946, pp. 521–522.


The following pages offer a brief overview of these activities, a detailed account of which is provided in the Report of the International Committee of the Red Cross on its activities during the Second World War; in the subsequent annual reports on the work of the ICRC and in the second volume of the history of the ICRC by André Durand. In his book the author devoted special attention to the fate of German prisoners of war in France, where the ICRC carried out the lion’s share of its activities. In the present volume we chose to study the case of Poland and, more briefly, that of Czechoslovakia and Yugoslavia. Although the activities carried out by the ICRC for German prisoners of war in these countries are mentioned only in passing in the organization’s publications, we thought it of interest to look at the ICRC’s possibilities at a time when it was under fire from the International Red Cross and its relations with Eastern European States were a veritable challenge.

Next, we will look at the questions of principle with which the ICRC was confronted while carrying out its work for prisoners of war, particularly those related to the unconditional surrender of Germany and Japan, and discuss how these influenced the drafting of the Geneva Conventions of 1949.

It should be noted that the matter of forced repatriations, which affected prisoners of war and civilians alike, is dealt with in the chapter on displaced persons.

The last subject of this chapter is the compensation of former Allied prisoners of war held captive by Japan, payment of which was overseen by the ICRC from 1951 onwards.

Protection and assistance activities

A brief overview

According to Article 75 of the 1929 Geneva Convention relative to the Treatment of Prisoners of War, “when belligerents conclude an armistice convention, they shall normally cause to be included therein provisions concerning the repatriation of prisoners of war. If it has not been possible to insert in that convention such stipulations, the belligerents shall, nevertheless, enter into communication with each other on the question as soon as possible. In any case, the repatriation of prisoners shall be effected as soon as possible after the conclusion of peace.”

However, the unconditional surrender of Germany and Japan and the disappearance of the two countries’ governments made it impossible for agreements on the repatriation of prisoners of war to be entered into by the belligerent parties. On the
contrary, their period of detention was prolonged by detaining powers preferring to keep them as manpower for reconstruction. The ICRC approached the authorities to address this situation but, as we shall see below, its representations did not have the desired effect. As a result, far from declining, its activities for prisoners of war and civilian internees increased considerably after hostilities had ceased.

Of some 11,000 camp visits carried out by the ICRC from 1939 until the end of June 1947, more than half, or 6,600, took place after the war: 2,200 in 1945, 3,300 in 1946, and 1,100 in the first six months of 1947. From July 1947 until December 1948, 1,550 were carried out in Europe alone. In the Far East, between the end of the hostilities and 1949, the total number of visits exceeded 300.

In 1945, visits were still taking place on all five continents, before the ICRC’s field of operation gradually diminished as repatriations continued to proceed. Visits were made as much as to camps as to work details and hospitals, transit centres where prisoners of war were gathered before being repatriated, and the ships and trains used to transport them. In some countries, both in Europe and in the Far East, the ICRC further had access to prisons in which prisoners were held who were under indictment or already serving a sentence, even after the general repatriation of prisoners of war.

In contrast, the material assistance provided by the ICRC remained very modest, hampered as it was by its extremely limited financial resources and a political and economic context unconducive to fundraising.

For instance, from mid-1945 until mid-1947, the ICRC sent 19 million Swiss francs worth of supplies to German prisoners of war, the equivalent of ten days of relief delivered for Allied prisoners of war during the war. Between 1947 and 1951, this amount fell to 6.7 million Swiss francs. Moreover, a portion of this relief was financed by donations from German and Austrian prisoners of war interned in the United States, whose situation was better than that of their compatriots in Europe, and by collections organized among German communities abroad. The lack of resources forced the ICRC to make difficult choices and to come to the aid only of the neediest prisoners in France, Poland, Yugoslavia and Czechoslovakia.

From 1949, after the end of the repatriation of prisoners of war by the Western Allies, relief was earmarked for repatriated prisoners in Germany and Austria and for former prisoners of war still held in various countries to serve prison sentences or to appear before the courts in Europe, in particular France and Yugoslavia, and the Far East. The ICRC further strove to facilitate the delivery of family parcels.

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11 André Durand, op. cit., p. 554.
Whereas conditions of detention in the United States and Great Britain were considered stable and satisfactory, and detainee numbers were shrinking, the same could not be said for several European nations where, on account of the widespread devastation and hardship, conditions in camps were often inadequate.\(^\text{13}\) The ICRC concentrated its work on Continental Europe,\(^\text{14}\) and more particularly on German prisoners of war. Deprived of any form of protection following the disappearance of their government and in the absence of a protecting power,\(^\text{15}\) they accounted for the largest number of detainees, were among the most impoverished and were held for longest.\(^\text{16}\)

The presence of nearly one million German prisoners of war in France – most of whom the American authorities handed over to the French authorities as manpower for reconstruction work – proved a major source of difficulties. One recurring problem was the shortage of food and clothing. In the autumn of 1945, the situation deteriorated to the point where the health and life of 200,000 to 300,000 prisoners were at risk. The worst was avoided by vigorous action on the part of the ICRC, relief activities carried out with the aid of the American authorities and efforts made by the French government. The extent of the possibilities made available to it also resulted in the ICRC’s delegation in France developing new types of activities for German prisoners of war under indictment and prisoners transformed into civilian workers and acting, in both cases, as a substitute protecting power. These activities continued through to the first half of 1951, when the consulate general of the Federal Republic of Germany in Paris, which opened on 1 October 1950, took over from the ICRC.\(^\text{17}\)

Although having more limited means at its disposal, the ICRC also concerned itself with the fate of Japanese prisoners of war held by the Allies. Its delegates in the Far East carried out visits to camps in China, Hong Kong, Thailand, Singapore, Malaysia, Burma, the Philippines, Indochina and the Dutch East Indies; they distributed relief supplies to the prisoners and facilitated the exchange of correspondence with their families. In particular, they made every effort to monitor the conditions of


\(^\text{14}\) The ICRC visited prisoners of war in the following countries of Continental Europe (thus excluding Great Britain, Malta and Cyprus): Austria (the American, British and French zones), Belgium, Czechoslovakia, Denmark, France, Germany (the American, British and French zones), Greece, Italy, Luxembourg, the Netherlands, Norway, Poland, Switzerland (military internees) and Yugoslavia.

\(^\text{15}\) By comparison, the ICRC’s activities for Italian prisoners of war were more limited, owing to the fact that Italy had restored diplomatic relations with the Allied powers and was able to take care of Italian nationals taken prisoner of war.

\(^\text{16}\) German prisoners of war would be the last to be repatriated by the Allied powers, after, in chronological sequence, Italian, Austrian and Hungarian detainees.

repatriation by visiting most of the ships intended for the transport of prisoners, made approaches to the authorities with a view to obtaining improvements, where necessary, and assisting during embarkation.\(^\text{18}\)

In general, and parallel to the approaches made as a matter of principle, discussed later in this book, ICRC delegates sought to follow the implementation of the repatriation plans fixed in the various countries concerned. For instance, delegates intervened to speed up operations and facilitate their organization where possible. Another ICRC activity consisted of monitoring the conditions in which prisoners were returned to civilian life and transmitting to the detaining authorities requests made by detainees not wishing to return to their country or town of origin. Where appropriate, similar approaches were made by delegates regarding civilian internees.\(^\text{19}\)

The general repatriation of prisoners of war held by the Western Allied powers was completed near the end of 1948, with the exception of those already under indictment. By that time, there were more than 80,000 prisoners of war still in France, who had freely entered into contracts and “transformed” into civilian workers. Repatriation operations were completed in Yugoslavia in January 1949, and in Czechoslovakia in July of that year. In Poland they continued until May 1950; however, it was not until 1956 that the last prisoners of war held by the Soviet Union returned home.\(^\text{20}\)

The countries of Eastern Europe

After the war, and despite having made several attempts,\(^\text{21}\) the most important of which was President Paul Ruegger’s visit to Moscow in November 1950 – the ICRC was unable to establish relations with the Soviet Union that would have enabled it to carry out its mission to protect prisoners of war and civilian internees in the hands of the USSR.

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\(^{21}\) See pp. 28 ff. above.
In May 1950 the Soviet authorities announced having completed the repatriation of prisoners of war, with the exception of some 13,400 Germans and 2,300 Japanese accused of war crimes. At that time, however, some 1.2 million German soldiers were listed as missing on the Eastern Front, which is to say they had not been officially recorded as killed in action and had not been repatriated. Of these, 600,000 were thought to have disappeared in the Soviet Union and the others in the rest of Eastern Europe. In addition, some 340,000 Japanese and 63,000 Italians were also missing, not to mention nationals of other countries. Among the missing, an estimated 85,000 Germans, 50,000 Italians and 20,000 Japanese (and around 50,000 Japanese still in China) were presumed captive in the Soviet Union, since they had been reported to have been alive and in captivity at the end of the war. Bonn, Tokyo and Rome drew up lists based in particular on eyewitness accounts of repatriated prisoners of war and on news sporadically sent by non-repatriated detainees to their families.

Following appeals by families, the Central Prisoners of War Agency forwarded to the Soviet Alliance of Red Cross and Red Crescent Societies several thousand search requests concerning primarily German prisoners of war presumed to be held in the Soviet Union. In 1951, at the request of the Japanese Red Cross, the Agency further transmitted more than 600 enquiry forms concerning Japanese soldiers. Apart from three replies received from the Alliance in March, April and July 1950, the ICRC obtained no replies or even acknowledgements of receipt until 1955, when answers were received to a small number of old enquiries.22

And yet, the problem of missing persons had already been raised with the Alliance during the president’s visit to Moscow in November 1950, and subsequently recalled in writing on the occasion of meetings in Geneva with representatives of the Alliance in November and December 1951.

At the 18th International Conference gathered in Toronto in November 1952, the ICRC president, Paul Ruegger, had launched a general appeal to the National Red Cross Societies and authorities of Eastern European countries on behalf of the “non-repatriated”, in response to which a resolution was adopted concerning persons still held in the aftermath of the Second World War.23 Before and after the Toronto Conference, the ICRC forwarded to the Alliance, and expressed its support for, two resolutions adopted by the Council of Delegates, submitted by the Japanese Red Cross concerning as yet unrepatriated Japanese soldiers. Lastly, in August 1953, at the request of the Japanese Red Cross, the ICRC also forwarded to the Alliance a request expressed by the Japanese National Society and government to meet with Soviet delegates to discuss this matter.

None of these efforts met with a response.

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23 See p. 108 above.
In contrast, it was possible to negotiate repatriations at the government level, in particular Japan and the Federal Republic of Germany.

At the same time, the ICRC attempted to send relief packages to persons held in the Soviet Union. A few thousand of these reached their destination, for the most part in 1954 and 1955.  

The ICRC also succeeded in reaching German prisoners of war in Poland and Czechoslovakia and, for a limited period, in Yugoslavia.

**Poland**

In late June 1946, two months after opening a delegation in Poland, the Polish authorities issued an agreement in principle permitting the ICRC to carry out its traditional activities for German prisoners of war.

Most of the 40,000-odd prisoners were former soldiers of the *Wehrmacht* captured by the Soviet armed forces and handed over to Poland in September 1945. Answerable to the ministry of security, they were assigned to the reconstruction of towns and industrial facilities destroyed during the war. Nearly 30,000 detainees distributed among some 60 camps worked in the coal mines of Upper Silesia, Lower Silesia and Cracow. The remainder of the prisoners depended on the central camp of Jaworzno, a town to the east of the Upper Silesian coal field, and were temporarily assigned to camps and work detachments throughout Polish territory; some 3,000 men were sent to work in the steelworks and furnaces of Silesia. Also housed in the Jaworzno camp were some 1,500 wounded and sick who were unfit to work.

In August 1948, the ICRC counted around 240 camps, without being certain, however, that this was the total number and without ever having succeeded, despite repeated attempts, to obtain either an official list of camps or details of the exact number of prisoners. At times delegates were thus reduced to discovering the existence of camps and prisoners by cross-checking information obtained by chance, as events were unfolding.

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25 Letters of 1 July 1946 from Dr E. Boesch, ICRC delegate in Poland, to the Polish minister of security and to the Polish Red Cross. Letter of 4 July 1946 from the Polish Ministry of Foreign Affairs to Dr Boesch – ICRC Archives, B G 3/48 o.

26 Letter of 4 July 1946 from the Polish Ministry of Foreign Affairs, cited above.


28 Note of 5 August 1948 and its annex from Jean Muller to the ICRC – ICRC Archives, B G 3/48 o.
3. Poland

4. Poland, 1946. Camp for German prisoners of war in Jaworzno
© ICRC (ICRC/CID, V P HIST-03184-32A)
Visits began in the area around Katowice, in Upper Silesia, in August 1946. Three months later, they moved to the Warsaw region, and then to eleven mining camps.

These were, however, isolated authorizations obtained only after long battles, fought by the ICRC delegation to overcome all manner of obstacles: screening of prisoners, cancelled visits, last-minute changes to the programme, inability to talk to prisoners’ representatives without witnesses and confiscation of goods such as cigarettes or chocolate, as the Polish authorities objected to prisoners of war receiving luxuries unavailable to the civilian population.\(^{29}\)

Visits were interrupted in November 1946 when the head of delegation, François Ehrenhold, was refused access to the camps in the area around Lublin, in the east of Poland, even though he had already travelled to the region with the approval of the Ministry of Security.\(^{30}\) Visits resumed in March 1947 in the Warsaw area. On that occasion, delegates learned of the existence of some 3,000 German prisoners of war under the direct control of the military authorities. Their request to be allowed to visit them was granted without delay.\(^{31}\)

Thanks to the head of delegation’s tenacity, visits were gradually carried out throughout Poland. Nonetheless, they did not always go smoothly, as is illustrated by the visit to the central camp in Jaworzno in the middle of July 1947. Having been refused access several times, delegates were finally authorized to carry out the visit, in the presence of a representative of the Ministry of Security and accompanied by the Polish Red Cross. To begin with, delegates spent two hours waiting for the representative of the Security Ministry at the camp gates, where the commander’s reception was “anything but courteous”. They were further informed from the start that they would not be authorized to speak with either prisoners of war or their representatives. They did, however, manage to hand over the food, medication and clothing intended for prisoners of war in the presence of the prisoners’ representatives and the German doctors. After much delay they were “reluctantly” taken to a prisoner-of-war barracks which “was certainly not the worst of them, but still no cause for joy; even though its inhabitants were not present, we realized right away that it would have been overcrowded, as evidenced by the triple bunks”. Then, just as the inspection had started, the delegates were asked to leave, as the evening roll call was drawing near and the camp had to close its gates. Delegates nevertheless gathered “from furtive whispers caught here and there” that there were nearly 900 prisoners of war and that

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29 Note of 6 November 1946 from ICRC delegate F. Ehrenhold to the ICRC, and minutes of the working sessions held with Mr Ehrenhold at the ICRC on 19 November 1946 – ICRC Archives, B G 3/48 o. Delegations Commission, summary of the meetings held on 8 January and 18 July 1947. Conference of Heads of Delegation in Europe with the Central Management, minutes of the 2nd meeting, Geneva, 5–10 May 1947. Minutes of the meeting of the Bureau held on 31 July 1947 and the plenary meeting of the ICRC held on 23 June 1948 – ICRC Archives, A PV.

30 Note of 19 December 1946 from F. Ehrenhold to the ICRC – ICRC Archives, B G 3/48 o.

almost all of them were working in the mines – information the camp commander had refused to release.\textsuperscript{32} In July 1947, delegates were granted access to the camps in the Lublin region, in October to camps in Gdynia, a harbour town on the Baltic coast, and in November to all mining camps that had not yet been visited by the ICRC and home to some 26,000 prisoners.\textsuperscript{33} Delegates also travelled to the steelworks, furnaces and other industrial plants of Upper Silesia and Poznan, in the west of the country.\textsuperscript{34} It was not until June 1949, however, that they were able to carry out their first visit to the Sikawa officers’ camp, opened in October 1948 in Lodz, and to the repatriation camp at Gliwice, in Upper Silesia, even though repatriation operations had begun on 10 October of that year.\textsuperscript{35} Delays and last-minute changes apart, the visits took place in delicate circumstances:

First of all (...), the success of our camp visits depends to a large degree on our escorts from the Polish security authorities and the Polish Red Cross. In this respect, we should like to state that we were less fortunate, to put it mildly, than in December (...). As a result, we were never able to speak with the POWs without the presence of witnesses, our escorts often being more numerous than the POWs present. Fearful of reprisals being taken against any POWs who might have been too forthright, we acted with the greatest possible care.

The camps of Huta Milowice and Chorzow III left an especially unfavourable impression, despite eager efforts by the local authorities and our escorts to persuade us to the contrary. At Huta Milowice we met a bare half-dozen POWs (...). At Chorzow III, some of the POWs were actually in the camp, but every time one of them talked to us, one of the Security Ministry representatives made a show of standing at his side.

Nonetheless, we were content at last to have been able to initiate contact with men cut off from all outside assistance for the past three years and to have been able to give them items they so urgently needed.\textsuperscript{36}

The delegation’s protests at the obstacles placed in the way of its activities were met by the authorities with references to the ICRC’s failure to come to the aid of Polish soldiers and civilians interned in concentration camps during the war. This allegation

\textsuperscript{32} Report by F. Ehrenhold on the visit to Jaworzno central camp on 18 July 1947 – ICRC Archives, A CL 15.09.03. See also the notes of 28 April 1947 and 16 November 1948 (Annex) by F. Ehrenhold, and the note of 2 July 1948 from J. Muller to the ICRC. Letter of 28 April 1949 from F. Ehrenhold to the Polish Red Cross – ICRC Archives, B G 3/48 o.


\textsuperscript{34} Note of 26 April 1948 from J. Muller to the ICRC – ICRC Archives, B G 3/48 o.

\textsuperscript{35} Notes of 15 March 1949 from F. Ehrenhold and of 14 July 1949 from J. Muller, to the ICRC – ICRC Archives, B G 3/48 o.

\textsuperscript{36} Note of 26 April 1948 from J. Muller to the ICRC – ICRC Archives, B G 3/48 o.
put delegates in a particularly uncomfortable situation. In the words of François Ehrenhold, “not a day goes by (...) without official and unofficial figures of the Polish Red Cross and government circles using the events of the war to justify the refusals and obstacles they put in my way.”

The delegates were nonetheless able to obtain improvements relating to the material conditions of detention (medical care, housing, and food) and working conditions (maximum daily hours of work, weekly rest, payment of wages) and the transfer of documents and the right to receive family parcels. Together with the Polish Red Cross, delegates were able to distribute various relief items, such as medicines, clothing and underwear, shoes and blankets, to the camp doctors and prisoners’ representatives. Regarding the mining camps, the delegates in October 1948 noted that:

Overall, the POWs’ situation in the camps has improved somewhat as regards food, clothing, mail and cultural activities. Nonetheless, we noted once again that in two of the eight mining districts (Dabrowa and Mikolov) conditions are very tough in several respects (...).

Ill-treatment remains fairly frequent at the Brzeszoze camp (12 cases signalled in October), which would seem the most run-down of the camps (...). Vermin is abundant and cases of furunculosis are said to be on the increase. The straw has allegedly not been changed for two years. On top of their normal hours, POWs have to do additional duty every two days.

The delegates also raised the matter of the brutality and ill-treatment meted out against prisoners of war. As a result, enquiries were opened and some of the camps closed.

In general, they noted that the most tangible results were obtained in camps they had the opportunity to visit on repeated occasions.

As far as legal assistance was concerned, delegates were authorized, if requested by families, to find out a prisoner’s place of detention and what he stood accused of and to present any exonerating evidence.

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38 Report on visits and relief distributions in the mining camps of Upper Silesia from 25 to 31 October 1948, written by J. Muller; annex to the note of 16 November 1948 from F. Ehrenhold to the ICRC – ICRC Archives, B G 3/48 o. Regarding the conditions of detention in the mining camps, aside from the reports on camp visits written by the ICRC, see also the account of a Swiss citizen who spent a year in one of these camps. His experiences were retranscribed by Dr Grin, delegate at Warsaw, and appended to the note of 2 October 1946 from F. Ehrenhold to the ICRC – ICRC Archives, B G 3/48 o.
40 Annex to note of 7 June 1949 from J. Muller to the ICRC – ICRC Archives, B G 3/48 o.
41 See pp. 136 ff. below.
Lastly, as part of the ICRC’s general appeals, delegates took steps to speed up the repatriation of prisoners of war, unfortunately without much success, the Polish authorities having made repatriation conditional upon completion of the evacuation of German civilians and Volksdeutsche.

In October 1949, with some 5,500 German prisoners of war remaining in Poland, the ICRC delegation in Warsaw was requested to close its doors. The Polish government justified its decision by the fact that the relief action for prisoners of war was coming to an end and that the Polish Red Cross, with which the delegation had been working since the beginning, would be able to complete the final stages. This decision, which had already affected almost all international organizations present in Poland, also followed in the wake of the restoration of diplomatic relations between Poland and the German Democratic Republic, which, in Warsaw’s view, was now in a position to deal directly with any of its nationals still being held by the Polish authorities. It further appeared that the Polish authorities had become concerned at the correspondence exchanged between the ICRC delegation and several thousand Germans or Volksdeutsche on the subject of collective transportation to be organized to the Federal Republic of Germany and on the transfer of cash assistance.

Czechoslovakia

In Czechoslovakia, the ICRC delegation in Prague had to wait for the departure of the American and Soviet armed forces, at the end of 1945, and for the Czechoslovak government to take control of the German prisoners of war left behind by the Soviet Union before starting to carry out activities in their behalf. The visits, which commenced in December 1945, were initially sporadic and then became part of monthly programmes. The first lists of camps reached the delegation in March, and the first lists of prisoners’ names in April 1946, following repeated requests by the ICRC.

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43 See p. 133 below.
45 According to official information available to the delegation; see note of 26 October 1949 from J. Muller – ICRC Archives, B G 3/48 o.
46 Minutes of the meeting of the Presidential Council held on 13 October 1949, the plenary meeting of the ICRC held on 20 October 1949 and the meeting of the Delegations Commission held on 16 December 1949 – ICRC Archives, A PV. Letter of 15 November 1949 from F. Ehrenhold to the president of the ICRC, Paul Ruegger, and the annex thereto; letter of 14 November 1949 by the president of the Polish Council of Ministers, J. Cyrankiewicz. Letter of 17 November 1949 from the Polish Red Cross to F. Ehrenhold, appended to the note of the same date from F. Ehrenhold to the ICRC – ICRC Archives, B G 3/48 o. RICR, No. 373, January 1950, pp. 65–66.
48 Delegations Commission, summary records of the meetings of 6 November 1945, 10 April and 31 October 1946, and 9 April and 18 July 1947 – ICRC Archives, A PV. Notes of 2 January, 5 January, 19 January, 4 March, 14 March, 16 April, 30 April and 29 May 1946 from W. Menzel to the ICRC, and minutes of a working session held with W. Menzel at the ICRC on 21 February
During their first visits the delegates noted that the prisoners of war were not grouped by category. Invalids were held together with able-bodied men, *Reichsdeutsche* prisoners of war with Sudeten Germans, officers with ordinary soldiers. All had to work and were treated more like civilian detainees, with whom they were sometimes kept, than prisoners of war protected by the 1929 Geneva Convention. Material conditions of detention were inadequate and ill-treatment common.\(^{49}\)

After a somewhat chaotic start, progress was nonetheless made, especially as regarded the registration, regrouping and repatriation of some of the prisoners of war, the seriously wounded and the sick, and of protected health-care personnel; the transfer of prisoners of war from civilian camps to camps specially set aside for them; the appointment of prisoners’ representatives to represent the prisoners of war in any dealings with the authorities and the ICRC; and improvements in working conditions.\(^{50}\)

In August 1946, 40,000 German prisoners of war from the Sudetenland were liberated, insofar as they were released from the camps under the authority of the Ministry of National Defence and put at the disposal of the Ministry of the Interior or the authorities of their last place of domicile. As a result, they were given the same status as the mass of *Volksdeutsche*,\(^{51}\) and henceforth shared their fate: they were

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49 Minutes of a working meeting held with W. Menzel on 21 February, 1946, *op. cit.*

50 Notes of 29 May, 3 June and 5 August 1946 from W. Menzel to the ICRC. Two notes, dated 14 June 1946 and 25 October 1946, from Dr O. Lehner to the ICRC – ICRC Archives, BG 3/70.

51 See p. 189 ff. below.
either evacuated to Germany if their families were still there or they were kept on as skilled labour.\footnote{56}

At that point, some 13,000 *Reichsdeutsche* prisoners of war remained employed on farms and in coal mines. They were regularly visited by ICRC delegates, who distributed relief supplies. The authorities, for their part, made every effort to take into consideration the recommendations of the ICRC and, as a result, the general situation of the prisoners improved over time.\footnote{53}

Despite various representations aimed at speeding up the repatriation of these prisoners of war, this was not achieved until the autumn of 1948 and took place in the course of three main operations, which took place in September, November and December 1948. An ICRC delegate remained present throughout the last two of these operations to make sure that the prisoners, some of whom were being transferred together with their families, were able to take their luggage with them. A final group of 28 prisoners of war, who had not been able to join the preceding transports, was eventually repatriated on 28 July 1949. An ICRC delegate accompanied the prisoners as far as Furth im Wald in the Federal Republic of Germany, where he handed them over to the local authorities.\footnote{54}

**Yugoslavia**

Following the repatriation of Italian prisoners of war at the end of 1946, an estimated 80,000 German and 12,000 Austrian prisoners of war remained in Yugoslavia.

Although the ICRC received numerous complaints about the abject treatment reserved for these prisoners of war during the first few months of their captivity in Yugoslavia, its delegates found it difficult to move about inside the country. With the exception of a few officers’ camps and hospitals, most prisoners were split up into small labour units working for a wide range of enterprises throughout the country. This lack of freedom of movement slowed delegates’ visits and prevented the ICRC from getting a realistic idea of the situation. As a result, in April 1946, after eight months of work, only 20-odd places of detention and some 14,000 out of a total of more than 100,000 prisoners of war\footnote{55} had been visited.\footnote{56}
These difficulties arose at the same time as the criticism raised by the authorities and the Yugoslav authorities regarding the ICRC’s activities during the Second World War and were an open sign of their lack of trust in certain delegates, which they asked to be recalled to Geneva. However, they were also the product of antagonism about post-war problems. For instance, in response to various representations on matters of principle made by the ICRC on the subject of the general repatriation of prisoners of war upon the cessation of hostilities and the application of the status of prisoner of war to soldiers under indictment, the Yugoslav authorities accused the ICRC firstly of objecting to international agreements which, according to them, provided for the use of prisoners of war for reconstruction work in devastated regions and, secondly, of extending the status of prisoners of war to war criminals. Lastly, they reproached it for opposing the repatriation of Allied nationals to their homes and for adopting a policy position by qualifying these repatriations as “forced”.

In April 1947, following the repeated refusal of the Yugoslav Red Cross to agree to an increase in ICRC staff (by then reduced to the only delegate to have been accredited – and initially even nominated – by the National Society), the ICRC closed its delegation in Belgrade. It believed that, without the means needed to carry out its mission, it was preferable not to take direct responsibility, opting instead to defer to the Yugoslav Red Cross for all questions relating to the presence of prisoners of war in Yugoslavia and asking the National Society to submit to the appropriate authorities any requests made by, or through the intermediary of, the ICRC. The ICRC also forwarded to the Yugoslav National Society any items intended for prisoners of war, even though this made little difference in practice, the Yugoslav Red Cross being the only body authorized to distribute relief materials. Relations were maintained by occasional missions, in the course of which the ICRC sought in particular to intervene on behalf of prisoners of war held in Yugoslavia for judicial reasons.

1946 from Dr Jaeggy to the ICRC – ICRC Archives, B G 17/139. Note by G. Dunand of 8 July 1946 – ICRC Archives, B G3/48r. Minutes of the meetings of the Bureau held on 2 May and 16 May 1946 and of the plenary meeting of the ICRC held on 20 June 1946 – ICRC Archives, A PV.

57 See above, pp. 51 ff. and 61 ff.

58 Note for the attention of Dr Bachmann, dated 7 June 1945 and signed by M. Schnyder, and note of 30 April 1946 from Dr Jaeggy to the ICRC – ICRC Archives, G 17/139. Delegations Commission, summary records of the meetings held on 5 June and 10 July 1945, and of the in camera part of the session of 15 May 1946. Minutes of the meetings of the Bureau held on 15 August and 29 August 1946 – ICRC Archives, A PV.

59 Note of 18 December 1946 of the Yugoslav Ministry of Foreign Affairs, appended to the note of 26 December 1946, by the ICRC delegates in Belgrade, and reply of 11 February 1946 from the ICRC to the Yugoslav Ministry of Foreign Affairs; see p. 150 and 156 ff. below.

60 Delegations Commission, summary record of the meeting held on 5 June 1946 – ICRC Archives, A PV. The delegate in question, Dr François Jaeggy, was a member of Centrale sanitaire Suisse, a body close to the Swiss labour party, which in 1944 and 1945 had organized missions to bring medical relief to Yugoslav partisans.

61 Letters of 7 September and 15 December 1946 from the Yugoslav Red Cross to the ICRC, and letter of 7 March 1947 from the ICRC to the Yugoslav Red Cross. Letter of 19 June 1947 from the Division des délégations to G. Dunand – ICRC Archives, B G 17/139. Regarding the ICRC’s
Questions of principle

The fact that hostilities had ceased not by the conclusion of a treaty but with the unconditional surrender of Germany and Japan, combined with the disappearance of the two nations’ governments, gave rise to an unprecedented situation. This had repercussions in particular on the status awarded to German and Japanese soldiers by the Allied powers, and on the duration of their captivity. However, the ICRC also faced other problems arising from the Second World War and its aftermath, such as being responsible during the transfer of prisoners from one Allied power to another; protection of prisoners of war under indictment; and the “transformation” of prisoners of war into political detainees or civilian workers.

Prisoner-of-war status

At the end of the war, the Allies, finding that they lacked the material resources needed to apply all the provisions of the 1929 Geneva Convention relative to the Treatment of Prisoners of War, contested that members of the German and Japanese armed forces captured after the surrender should be awarded prisoner-of-war status. Given their mass surrender, these troops were considered stripped of their rights under the Convention and qualified as “surrendered enemy personnel”. These measures affected especially some 3.5 million Japanese troops in the Far East and German troops in Italy (65,000 men).

ICRC delegates nonetheless had access to this category of detainees. Although in some ways they appeared to be treated better than prisoners of war – surrendered enemy personnel remained under the supervision of its own officers and enjoyed a certain amount of freedom inside labour camps – this did not apply in all respects, such as the non-payment of wages, with a number of the Convention’s provisions not being applied.

Aware of the fact that the creation of a new category of military detainees endangered the very status of prisoner of war – and of the risk posed by a precedent of this kind – the ICRC contacted the American and British authorities on several occasions to remedy the situation, with some success.

On the occasion of the adoption of the new Geneva Conventions of 1949, the ICRC’s experiences with surrendered enemy personnel at the end of the Second World War led to changes in the terminology used to define persons granted prisoner-of-war activities in Yugoslavia, research was hampered by the fact that no summaries were prepared of the most important reports presented by delegates to the ICRC’s executive bodies; these reports were merely referred to, further evidence that this was a particular sensitive matter for the ICRC.

62 In this regard, see René-Jean Wilhelm, “Peut-on modifier le statut des prisonniers de guerre?”, offprint of the RICR (July and September 1953), Geneva, ICRC, 1953.

status. Article 1 of the 1929 Geneva Convention referred to persons “captured” by the enemy. The Third Geneva Convention of 1949, relative to the treatment of prisoners of war, stipulates in Article 4, A., that “prisoners of war, in the sense of the present Convention, are persons belonging to one of the following categories, who have fallen into the power of the enemy”. The expression “fallen into the power of” has thus replaced the term “captured”, in order to include the case of soldiers who become prisoners without fighting, for instance after surrender or capitulation.64

The repatriation of prisoners at the end of hostilities

The fact that prisoners of war continued to be held after the end of captivities rapidly became one of the main concerns of the ICRC, which subsequently made a series of representations to raise the issue and speed up repatriation: the memorandum dated 21 August 1945 sent to the main detaining powers, which is to say the American, Belgian, British, French and Soviet governments, and to the Allied Commission of Control in Germany, in which it pointed out that prisoners of war should not be held for an indeterminate period;65 the memorandum of 2 July 1946 to the detaining powers party to the 1929 Geneva Convention relative to the Treatment of Prisoners of War – and therefore not to the Soviet Union, which was merely informed of the memorandum – in which it recalled that, in the spirit of the Convention and in the absence of a peace treaty, it was up to the detaining powers to take the initiative of repatriating any prisoners of war;66 an appeal issued on the occasion of the end-of-year holidays in 1946; and, finally, an appeal dated 28 November 1947, which was sent to all governments and National Red Cross Societies. The ICRC considered that although in wartime holding prisoners of war was indeed justified by the need to prevent them from taking up arms, there was no longer any justification to keep them captive at the end of hostilities. It noted that extending their captivity was motivated primarily by a need for manpower on the part of the detaining powers and that they were turning former combatants into labourers because they were nationals of countries obliged to pay reparations. Above all, the ICRC pointed out that continued captivity was in breach of the Red Cross universal principles of respect for the human person and human rights.67

65 RICR, No. 334, October 1946, pp. 840–842.
66 Ibid., pp. 843–844.
The ICRC’s work for the repatriation of prisoners of war did not meet with approval from Eastern European countries such as Yugoslavia, which considered that this matter should be dealt with by the Allies and was beyond the capacities of the ICRC.

At the conference of the ministries of foreign affairs held in Moscow in April 1947, the United States, France, Great Britain and the Soviet Union agreed that all German prisoners of war would be repatriated at the latest by the end of 1948. This deadline was eventually adhered to, except for prisoners held in Poland and the Soviet Union, which continued to detain POWs until 1950 and 1956, respectively.

Towards the end of 1948 the American Red Cross suggested that the ICRC should launch a fresh appeal in favour of non-repatriated prisoners of war. Since at that time the American and Soviet governments were exchanging memoranda on the matter, the ICRC considered that this had become a political issue and that it would not be able to follow up on the American National Society’s suggestion. A new appeal would be interpreted to be directed against certain countries – in this case Poland and especially the Soviet Union – and in support of the United States, and would come to nothing. The ICRC also took refuge in the fact that the Soviet Union was not bound by the 1929 Convention on prisoners of war.68

When the 1949 Geneva Conventions were adopted, substantial amendments were made to Article 118 of the Third Geneva Convention relative to the general repatriation of prisoners of war after the cessation of hostilities, so as to prevent any delays in repatriation that might result from the parties’ failure to reach an agreement.69

In January 1951, following a resolution entitled “Measures for the peaceful solution of the problem of prisoners of war”, adopted by the United Nations General Assembly in December 1950, the ICRC’s assistance was once more requested in the matter of prisoners of war taken captive during the Second World War and not yet repatriated or otherwise accounted for. Requested by the General Assembly to “establish an Ad Hoc Commission composed of three qualified and impartial persons chosen by the International Committee of the Red Cross or, failing that, by the Secretary-General himself, with a view to settling the question of the prisoners of war in a purely humanitarian spirit and on terms acceptable to all the governments concerned”, the United Nations Secretary-General invited the ICRC, together with the League of Red Cross Societies, to designate the three members of the ad hoc commission.

Recalling the steps it had taken at the end of the war and its contribution to the adoption of the new Article 118 of the Third Geneva Convention of 1949, the ICRC refused, referring to the memorandum of 12 September 1939, in which it had set out its position on breaches of international law,70 and made it clear that the ICRC would be able to conduct enquiries only under a mandate conferred on it by a Convention.

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68 Minutes of the meeting of the Bureau held on 20 January 1949 and of the meeting of the Presidential Council held on 24 February 1949 – ICRC Archives, A PV. Letter of 7 January 1949 from the American Red Cross to the ICRC, and reply by the ICRC of 14 March 1949 – ICRC Archives, B G 86/R.

69 See p. 244 below.

70 See pp. 39 and 80 above.
or on the basis of an ad hoc agreement by the parties concerned. The ICRC remarked that these conditions had apparently not been met, as the United Nations resolution had not been adopted unanimously by the States concerned, and went on to point out its neutral and impartial position and concern not to engage in any activity that might hamper its efforts to search for the missing.\(^{71}\)

Shortly before, in November 1950, the president of the ICRC, Paul Ruegger, had travelled to Moscow to meet with the Soviet Alliance of Red Cross and Red Crescent Societies and used the opportunity to raise the matter of missing prisoners of war. Even if these turned out to be false hopes, it is probable that, at the time, the ICRC had been seeking not to compromise its attempts at a rapprochement with the Soviet Union, bearing in mind that the Korean War was ongoing and that it feared the outbreak of a third world war.

### Responsibility for prisoners of war transferred from one power to another

The ICRC approached not only the French detaining authorities but also the American military authorities in the hope of addressing the catastrophic situation of German prisoners of war transferred by the United States to France.\(^{72}\) It was of the opinion that the power that had originally captured the prisoners remained responsible for them even if they were transferred to another power. The ICRC’s approaches to the authorities resulted in not only the release of substantial relief supplies but also, in October 1945, a temporary end to the transfer of prisoners of war. Transfers were not resumed until February 1946 and ceased altogether on 30 June of the same year. In the end, only some 450,000 prisoners of war were handed over to the French authorities instead of 600,000, as initially planned.\(^{73}\)

However, the Geneva Convention of 1929 in force at that time did not contain a single provision for the event of a transfer of prisoners of war from one detaining power to another. This gap is filled by Article 12 of the Third Geneva Convention of 1949, inserted in response to the situation described above. According to Article 12: “Prisoners of war may only be transferred by the Detaining Power to a Power which is a party to the Convention (…). When prisoners of war are transferred under such circumstances, responsibility for the application of the Convention rests on the

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\(^{71}\) *RCR*, No. 387, March 1951, pp. 181–190. Minutes of the meeting of the Presidential Council held on 11, 16 and 25 January 1951 – ICRC Archives, A PV.

\(^{72}\) See p. 120 above.

Power accepting them while they are in its custody. Nevertheless if that Power fails to carry out the provisions of the Convention (…), the Power by whom the prisoners of war were transferred shall (…) take effective measures to correct the situation or shall request the return of the prisoners of war.”

Prisoners of war under indictment

In the 1929 Convention, the rules applying to prisoners of war under indictment were set out in Articles 60 to 67. They establish the principle that “a sentence shall only be pronounced on a prisoner of war by the same tribunals and in accordance with the same procedure as in the case of persons belonging to the armed forces of the detaining Power”, and guarantee prisoners’ rights of defence and appeal. The duty to ensure compliance with these provisions lies with the protecting power, which must be notified from the commencement of a judicial hearing against a prisoner of war and informed of the court that will be hearing the case, so as to enable the protecting power to attend the hearing. The protecting power may further procure an advocate for the prisoners. Any sentences pronounced must be communicated to the protecting power. Lastly, if sentence of death is passed, the sentence may not be carried out before a period of at least three months has expired, from the date of receipt of the communication by the protecting power.

During the Second World War, whenever prisoners of war under indictment found themselves without a protecting power, the ICRC had made an attempt to address the consequences of this shortcoming.\footnote{Report of the International Committee of the Red Cross on its activities during the Second World War (September 1, 1939–June 30, 1947), Vol. I, op. cit., pp. 353–361.}

At the end of the conflict, the matter took on a new dimension altogether with the punishment of war crimes perpetrated by nationals of the Axis powers. In keeping with the Moscow Declaration of 30 October 1943, the process was to be carried out in two stages.\footnote{Jean-Pierre Maunoir, La répression des crimes de guerre devant les tribunaux français et alliés, doctoral thesis submitted to the faculty of law of Geneva University, Editions Médecine et Hygiène, Genève, 1956, p. 24.} The first concerned only the main leaders with major responsibility for starting the war and the atrocities committed in its course, and whose offences were not tied to a particular geographical location. These were the trials of major war criminals held before the International Military Tribunals of Nuremberg (20 November 1945 to 1 October 1946) and Tokyo (29 April 1946 to 12 November 1948).\footnote{In Nuremberg, of the 22 accused 12 were sentenced to death, seven to imprisonment (including three for life) and three were acquitted. In Tokyo, of the 28 accused seven were sentenced to death, 18 to imprisonment (of whom 16 for life), one was acquitted and two died during the trial.} The second stage took place at the national level: every country previously at war with Germany or Japan made legislative provisions that would enable it to try in court former enemy soldiers who had carried out their criminal activities in a specific
location. These were prisoners who stood accused of crimes personally committed prior to their capture and prisoners who were part of entities declared to be criminal organizations by the Nuremberg Tribunal, such as the SS, Gestapo or SD, or certain military units accused of collectively having perpetrated well-established crimes. However, the 1929 Convention contained no provisions concerning the punishment of crimes committed prior to capture. The Convention does not specifically exclude that the guarantees granted in the event of indictment of crimes committed during captivity should also be extended to crimes carried out before capture. However, it would seem that those who drafted the 1929 Convention did not consider the second possibility. This shortcoming gave rise to numerous discussions.

Indeed, during the trials held after the war, several of the accused had asked to be afforded the guarantees provided by the 1929 Convention. However, with the exception of a belated decision by the French Supreme Court of Appeal, given in July 1950, most Allied courts refused the accused access to protection under the Convention.

The ICRC, for its part, set out its position in a memorandum dated 14 October 1946. Having noted that the 1929 Convention did not, as a rule, apply to prosecuted prisoners of war – either because they were held without their prisoner-of-war status having been recognized or because they had been released and then rearrested as civilians – it went on to state the following:

The ICRC considers that all military personnel in captivity who have to answer before the courts for offences or crimes must retain the benefit of PW status (...) without any a priori discrimination in regard to the forces in which they served. To this end, they should be allowed to have, without restriction, visits from delegates of the ICRC, and to correspond regularly with their relatives. PW under prosecution should moreover benefit by Arts. 60 to 67 of the Convention (...) It is indeed beyond doubt that the guarantees of procedure provided by the Convention for PW (...) are of a general nature, and that PW should benefit by them, irrespective of the offences they are charged with, since the guilt of the accused is only presumed until judgment.

It should have been up to the protecting power to ensure that the above guarantees are fulfilled. In this respect the ICRC remarked that “it would be regrettable if the elimination of the body serving as Protecting Power were to signify entire failure to implement (...) the Convention. (...) It desires nevertheless to give its support, as far as it is able to do so, to PW under prosecution, and it would therefore be grateful if the Detaining Powers would refrain from denying to PW who apply for its intervention, the opportunity of receiving that aid.”

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The ICRC instructed its delegates to contact the detaining powers to inform them of its position and to request that it be allowed to intervene in order to ensure compliance with the guarantees of procedure, especially if it were to be seized to address any complaints.80

In addition to France, where it carried out the role of substitute of the protecting power, the ICRC was authorized to intervene, in various ways, primarily in Austria, Belgium, the British Empire, Czechoslovakia, Germany, Greece, Luxembourg, the Netherlands, Norway, Poland and the United States. In Italy, the AGIUS (Assistenza Giuridica agli Stranieri), an independent section of the Italian Red Cross offering legal assistance to foreign citizens, was in charge of providing detainees with advocates and interpreters.81

Without taking position on the principle of the prosecutions and the charges brought against the accused, the ICRC was somewhat concerned at the course taken by the courts, especially as regarded the decision that the accused should not be afforded the guarantees provided by the 1929 Convention. The ICRC’s concern was deepened by the fact that in most countries persons accused of war crimes are prosecuted under special ad hoc legislation encouraging ex post facto suits – and not under ordinary criminal law. The ICRC also considered it unfair and inconsistent with the principle of presumption of innocence to withhold the benefits of the 1929 Convention before the accused had been found guilty of war crimes.82

It was for that reason that, when the 1929 Convention was undergoing revision, the ICRC suggested that prisoners charged with war crimes should continue to be afforded the full guarantees provided by the Convention until a final judgment finding them guilty had been handed down. Finally, after much back and forth and considerable debate, Article 85 of the Third Geneva Convention of 1949 stipulated that prisoners of war would retain the benefits of the Convention even if they were

80 Minutes of the meeting of the Bureau held on 3 October 1946. Conference of Heads of Delegation in Europe with the Central Management, minutes of the 2nd meeting, Geneva, 5–10 May 1947 – ICRC Archives, A PV.
82 Commentary, Vol. III, op. cit., pp. 413 ff. Even though in this case the proceedings were brought for exceptionally serious offences, they were nevertheless a source of numerous controversies. For further information in this regard, see Jean-Pierre Maunoir, op. cit., and Pierre Boissier, L’Epée et la Balance, Editions Labor et Fides, Geneva, 1953. Both worked as lawyers in the legal department of the ICRC delegation in Paris. Gerd Hankel had this to say about “ex post facto” laws and the failure to prosecute war crimes committed in the service of the victorious nations, related to the criticism of “victors’ justice” raised in regard to the Nuremberg trials: “These crimes of a new dimension called for an appropriate response, which, in the absence of relevant written or customary international law, was found in natural law. In other words, at the time it would have been considered an affront to universal human values if the Nazi war criminals had gone unpunished. The law of Nuremberg was therefore the product of a special set of circumstances that justified its ad hoc codification.” See also Annie Deperchin et al., “La guerre anticipée: normes juridiques et violence de guerre (Table ronde)”, in Stéphane Audoin-Rouzeau et al. (eds), La violence de guerre 1914–1945, Approches comparées des deux conflits mondiaux, Editions Complexe, Paris, 2002, p. 67.
prisoners of war and civilian internees

The article therefore went beyond the ICRC’s initial proposal, those arguing in favour of it having been able to show that the few basic rules of humanity benefiting condemned prisoners of war represented but a minimum standard generally accepted by civilized nations and would not stand in the way of the repression of war crimes. At a practical level, the ICRC’s activities enabled a number of prisoners of war to defend themselves by means that would not otherwise have been available to them. These activities proved of great importance to the exercise of justice and the development of the law. In contrast, they had a negative impact on the image of the ICRC, which was perceived as an organization aiding war criminals.

Prisoners of war “transformed” into political prisoners

As regards in particular the prisoners of war released in Germany and then rearrested as civilians on the grounds of their ties to the National Socialist party and held in the same internment camps as civilians arrested for the same reasons by the occupying powers, the ICRC considered that they could not be deprived of vested rights by a unilateral decision taken by the detaining power. Only repatriation and final discharge could be considered the end of captivity and release the detaining power of its duties under the relevant conventions. In taking this point of view at the time, the ICRC did not intend to stand in the way of judicial proceedings. It merely believed that it was possible to hold trials without the need to deprive the detainees, who until convicted were simply suspects, of their status as prisoners of war.

Whenever such cases came to its attention, the ICRC instructed its delegates to contact the competent authorities and to try and visit the internees. From early 1946 onward, the ICRC was permitted to visit camps housing German civilian internees in the British and French occupation zones and, starting in the spring of 1947, camps in the American zone that were under direct American control. However, despite repeated requests, it was not granted access to camps the American authorities had placed under the control of the local German government. The majority of internees – several tens of thousands of them – were held in camps under German administration. The American government let it be known that it considered this a purely internal matter entirely within the competence of the local German authorities, which in turn referred to the position of the American occupying authorities.

83 See p. 244 below and footnote 131.
84 Minutes of the plenary meetings of the ICRC held on 20 June and 10 October 1946 – ICRC Archives, A PV.
85 In early 1947 more than 45,000 German civilian internees were held in the American zone but under German administration. Most of these internees were former members of the Sicherheitsdienst, Gestapo, SS and Führerkorps. At the beginning of 1948, this number had declined to 26,000. See note by the Berlin delegation, dated 15 April 1948 – ICRC Archives, B G 17/eff., carton 456.
At the time, the directors of the ICRC considered that “the American government’s refusal to allow the ICRC to visit the camps of civilian internees in the American occupation zone (...) was on a par with the refusal to allow the Committee to visit the concentration camps.” They felt that they had to make the same representations to the American authorities as they had to the German ones. This analogy may come as a surprise if one considers who was incarcerated in the concentration camps and how they were treated. It is, however, merely a reflection of the ICRC’s approach of examining this matter from a purely legal perspective and must be viewed in the context of an organization still reeling from accusations that it had failed to take care of the civilians interned in concentration camps, an allegation it did not want to hear repeated. Incidentally, the American refusal confirmed the ICRC in its conviction that it was important to adopt a new convention relating to civilians.

Prisoners of war “transformed” into civilian workers

During the war, the ICRC had already protested against the “transformation” of prisoners of war into civilian workers. The Third Reich had pioneered the principle, later adopted by the American and British governments to bypass Articles 31 and 32 of the 1929 Convention, which prohibited the employment of prisoners of war to carry out work related to military operations or for unhealthy or dangerous work. Even though from the prisoners’ point of view their “transformation” seemed to have certain short-term material advantages, it deprived them of their status as prisoners of war and the corresponding rights under the relevant Conventions. Depending on the circumstances, this had potentially very serious consequences including, in the case of prisoners of war captured by the Germans, being sent to a concentration camp.

After the war, several States, including France, Belgium, Luxembourg and Great Britain, offered the prisoners of war in their power employment contracts that would enable them to benefit from the same advantages as foreign workers. In France, this became an issue following a request by the United States to repatriate, by 1 October 1947, all the prisoners of war captured by the American armed forces and handed over to the French government. Instead of the repatriation of all prisoners of war on the date in question, the French government put forward a plan which, while taking into consideration the American government’s wish to speed up the rate at which German prisoners of war were released, would allow the French government to keep the human resources

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86 Minutes of the plenary meeting of the ICRC held on 21 April 1948 – ICRC Archives, A PV.
it needed to avoid serious disruptions to the civilian economy. It was proposed that all prisoners of war, without distinction between those transferred by the American armed forces to the French forces and those captured directly by the French, should be allowed to choose to convert to the status of civilian workers in France, which would include their release and an employment contract. The French government further suggested to the United States that the ICRC, as neutral intermediary, should be put in charge of monitoring that this option was freely chosen by the prisoners concerned.

The ICRC was approached by both governments in this regard but rejected the proposal, which it considered contrary to what had always been its solution of choice: repatriating all prisoners of war as soon as possible after the cessation of hostilities. It further did not think that it was in a position to state whether the decision of conversion to the status of civilian worker and of being “transformed” was always made freely, since it would have been made during captivity. However, in a statement of principle dated 25 February 1947, and having noted that the “transformed” prisoners would be afforded guarantees at least equivalent to those granted under the 1929 Convention, it let it be known that it would continue to carry out its traditional activities in behalf of prisoners of war and civilian workers and that its delegates would continue visits to both categories before and after a choice had been made. Delegates would note any complaints made by “transformed” and ordinary prisoners of war and would report them to the relevant French authorities, regardless as to whether they concerned the situation of captive prisoners or of detainees who had been “transformed” or the conditions under which the choice was made and the consequences thereof. In parallel, the ICRC informed the German prisoners of war that its delegates remained at the disposal of both civilian workers and prisoners of war, should they have any requests. It also drew their attention to the fact that, once they had opted for the status of civilian workers, they were no longer protected under the Geneva Convention and would be afforded the guarantees granted by French law to foreigners living in France.

During subsequent negotiations, the ICRC agreed to monitor the application of the status granted to German civilian workers. From 1948 onward, and on a confidential basis, the ICRC extended its assistance to civilian workers who were not former prisoners of war but had been recruited by the French government directly in Germany.

From 1947 until the end of 1950, the ICRC delegation in France handled 30,000 out of a total of 120,000 cases relating to civilian workers.\(^{89}\)

As far as the legal basis was concerned, Article 83 of the 1929 Convention granted States parties “the right to conclude special conventions on all questions relating to

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prisoners of war concerning which they may consider it desirable to make special provisions”. In view of the general application of Article 82, according to which “the provisions of the present Convention shall be respected (...) in all circumstances”, the above right would, however, to be subject to restrictions. During the drafting of the Third Geneva Convention of 1949, and in the light of its experiences during the Second World War, in the course of which the governments of countries occupied by Germany had concluded a number of agreements with the occupier, thereby stripping prisoners of war of some of the rights they enjoyed under the 1929 Convention, the ICRC recommended that, to avoid all ambiguity, the following clause should be added to the provision concerning special agreements: “No special agreement shall adversely affect the situation of prisoners of war, as defined by the present Convention, nor restrict the rights which it confers upon them.” This protective clause is contained in Article 6 of the Third Geneva Convention of 1949, concerning special agreements.90

Indemnification of former Allied prisoners of war held by Japan

The peace treaty between Japan and 47 Allied powers, signed in San Francisco on 8 September 1951, stipulates in Article 16 that:

As an expression of its desire to indemnify those members of the armed forces of the Allied Powers who suffered undue hardships while prisoners of war of Japan, Japan will transfer its assets and those of its nationals in countries which were neutral during the war, or which were at war with any of the Allied Powers, or, at its option, the equivalent of such assets, to the International Committee of the Red Cross which shall liquidate such assets and distribute the resultant fund to appropriate national agencies, for the benefit of former prisoners of war and their families on such basis as it may determine to be equitable.91

The treaty entered into force on 28 April 1952.

The remainder of this chapter is primarily devoted to outlining the conditions at which the ICRC agreed to accept this new mandate and the challenges it faced as a result over the following several years. Readers wishing to find out more about the actual liquidation and distribution of assets, which proved to be a complex, drawn-out affair, are referred to the report published by the ICRC in 1971.92

The ICRC’s conditions for acceptance of the new mandate

On 10 July 1951, representatives of the United States and the United Kingdom at Geneva informed the president of the ICRC, Paul Ruegger, that Article 16 of the draft peace treaty with Japan provided for the ICRC to play a role in the payment of compensation to former Allied prisoners of war held by the Japanese. The two governments initiating the treaty wished to know whether the ICRC would be willing, in principle, to carry out the tasks that would be assigned to it and for which they considered the organization to be entirely qualified.93

The ICRC discussed the matter at a working meeting held two days later. It decided that, under its Statutes, it had the power to act on behalf of victims of not only ongoing hostilities, but also of past conflicts, and that it was therefore authorized to accept the proposed mandate in principle. That having been said, it decided to pose a number of conditions, in particular that the provisions of Article 16 should be freely accepted by both Japan and the powers94 on whose territories the Japanese assets in question were situated. The funds released would have to be considered donations to the ICRC. The ICRC would have to be able to act completely independently, in accordance with the principles of neutrality, impartiality and universality that traditionally guided its activities. Since its work was strictly humanitarian in nature, it would not imply any approval or disapproval by the ICRC of treaty provisions stipulated by the governments concerned. Lastly, the details of any procedural and financial measures to be taken in accordance with the above principles would be worked out at a later stage by the ICRC and these governments. The ICRC informed the American and British governments of its position in a note verbale on 13 July.95

Between the time it informed the stakeholders of its acceptance in principle and the conference for a peace settlement with Japan, which it was invited to attend, the ICRC sent a representative to Tokyo, who obtained from the Japanese authorities their formal guarantees that the agreement to transfer funds to the ICRC had been freely entered into.96

The ICRC also took advantage of this intervening period to examine in more detail the implications of Article 16, especially since the two initiating governments had made amendments to the text of the article. The ICRC was concerned by two

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94 This applied in particular to countries having remained neutral during the Second World War and enemy nations of the Allied Powers which had not been called upon to become parties to the peace treaty and would therefore not be bound by it.
95 Extract from the minutes of the working meeting of the Committee of 12 July 1951. Note verbale of 13 July 1951 from the ICRC to the Consulates General of the United States and the United Kingdom at Geneva, and annex, Communiqué No. 476 of 12 July 1951 – ICRC Archives, B AG 210/ex 019-001 and 019-034.
main issues: firstly, the liquidation of the assets, which required both business and financial transactions, such as the realization of fixed assets in a variety of shapes and forms, and the diplomatic tasks, for which the ICRC considered it did not have a mandate. The second issue resulted from an amendment and concerned the fact that some of the funds to be transferred to the ICRC belonged to Japanese citizens and were therefore private assets protected in time of war under the Hague Conventions. As a result, the ICRC felt that it was necessary to clarify its position. It stated its clear preference for a solution that would give Japan the choice of transferring to the ICRC the equivalent of its assets rather than the actual assets held by it or its nationals in neutral countries or former warring nations. Apart from the fact that this solution would speed up the payment of compensation to former prisoners of war, it would do away with the two main restrictions posed by the ICRC. To lend further weight to its proposal, the ICRC pointed out that, although the equitable distribution of funds to victims of war was entirely within the scope of its mandate, the same could not be said, prima facie, of the assessment and liquidation of assets, which was up to the governments concerned. The ICRC further noted that, as the funds made available to it were considered donations to the ICRC, this solution would avoid it becoming an accomplice in the theft of private property; such property could be distributed only if guarantees were given that they would be compensated by the Japanese government. Lastly, the ICRC reserved the right to set its own rules of distribution. These clarifications were conveyed to the American and British governments on 29 August.  

By travelling to the San Francisco Conference (held from 4 to 8 September 1951), the ICRC president had been hoping to obtain an amendment to Article 16 as desired by the ICRC. As it turned out, however, and in keeping with the Conference rules, no amendments to any of the articles were permitted. As soon as it had become known that the Soviet Union, Poland and Czechoslovakia would be attending, the two inviting powers, the United States and the United Kingdom, agreed to consider the treaty text an indivisible whole. Unbeknownst to Paul Ruegger, it was decided to oppose amendments in any form.  

Under the circumstances, the ICRC president did not go beyond discussions with the American and British representatives, who offered written guarantees that the negotiations on the course of action and subsequent communication of the ICRC’s position to the other signatory States would be continued.  

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97 Extracts from the minutes of the working meetings of the Committee held on 2 August, 23 August and 30 August 1951. Note of 17 August 1951 from the governments of the United States and the United Kingdom to the ICRC. Internal memorandum of 29 August 1951, document D 173b – ICRC Archives, B AG 210/ex 019-001.

98 Report by President Paul Ruegger on his mission to San Francisco, presented at the working meeting held on 20 September 1951 – ICRC Archives, B AG 210/ex 019-001.

99 Telegram of 8 September 1951 from Paul Ruegger to the ICRC Presidential Council. Letters of 7 September 1951 from the American and British ministers of foreign affairs, John Forster Dulles and Kenneth Younger, to the ICRC president – ICRC Archives, B AG 210/ex 019-001.
In late September 1951, the ICRC, having been presented with the president’s report, confirmed its acceptance to the American and British governments, subject to the written guarantees given in San Francisco.\textsuperscript{100}

Notwithstanding these two major reservations, which were not subject to compromise, the ICRC president argued as follows: for the first time, the ICRC as an organization was named in a peace treaty relating to the victims of war, without any mention being made of the other components of the International Red Cross.\textsuperscript{101} It was in the ICRC’s interest not to let this opportunity pass, particularly at a time when its position within the International Red Cross was being contested. It was also the ICRC’s duty to assist the victims of past conflicts when given the opportunity, and the organization therefore had to strive to provide help if it did not want others to dispute this area of competence. Article 16 recognized the role of the ICRC as regards assistance to prisoners of war; this recognition was all the more precious at a time when the ICRC was unable to go to work on all fronts.\textsuperscript{102} Lastly, carrying out a new mandate would help the ICRC to maintain a core of staff indispensable in the event of a general conflict.

In conclusion, Paul Ruegger feared that, should the ICRC refuse, it would no longer be considered an organization with which it was possible to look for new solutions and would, in the best of cases, remain confined to its traditional activities: “But what is this action today? Should a conflict spread, the Powers sadly are no longer under the illusion that we might be able to take action in behalf of their prisoners of war in communist countries. At present they regard us as an organization that can provide humanitarian assistance to prisoners, but only in their own country. For they think that the Soviet Union will not allow the ICRC to do more than during the last war (...). I doubt whether, if in the matter of the Japanese assets we conduct ourselves too ‘cautiously’ (...), the ICRC will be taken seriously in the current international situation. The United Nations are already talking about the ‘prisoners of war’ of the last conflict in the Soviet Union; moreover we do not wish to be consulted – and for good reason.\textsuperscript{103} Naturally we can withdraw from all action, as we did in 1947, when, lacking resources, the ICRC wanted to pull out of all relief activities. That is indeed an option. But if we do so, how would we go about remobilizing our organization in the event of a general conflict?”\textsuperscript{104}

\textsuperscript{100} Extract of the minutes of the Committee’s working meeting held on 27 September 1951 – ICRC Archives, B AG 210/ex 019-001.

\textsuperscript{101} In this regard, it has to be recalled that the Statutes of the International Red Cross were under revision and that the ICRC was struggling for the League of Red Cross Societies to recognize its specific role as a neutral intermediary and organization working to help victims of war and mitigate the consequences.

\textsuperscript{102} The ICRC president was alluding to the Korean conflict where, in spite of many efforts, the ICRC was unable to carry out its mission in behalf of prisoners of war interned in North Korea and China.

\textsuperscript{103} See p. 134 above.

\textsuperscript{104} Report by President Paul Ruegger on his mission to San Francisco, \textit{op. cit.} Minutes of the meeting of the Presidential Council held on 23 August 1951 – ICRC Archives, A PV.
Implementing the plan of action

In line with its position, the ICRC insisted that it was up to the Allied powers to take the initial measures that would make it possible to proceed with the intended distribution. It was the job of the Allied powers to draw up an inventory of the assets and to evaluate, liquidate and transfer them to the ICRC. All the ICRC could do was lend its support. Since the former prisoners of war and their families were scattered across many different countries that were not the same as the countries from which the funds originated, the ICRC further requested that, after liquidation of the assets, the funds obtained be transferred in a freely convertible currency.

To coordinate their action and facilitate cooperation with the ICRC, the governments of the beneficiary powers set up a working group with headquarters in London, in addition to appointing an executive committee representing three of the powers: the Netherlands, Pakistan and the United Kingdom. Its main task was to carry to completion the technical negotiations between Japan and the other interested governments in order for the funds designated in Article 16 to be made available to the ICRC.

Lastly, it was also up to the beneficiary powers to designate the “appropriate national agencies” to which the ICRC would have to distribute the funds intended for former Allied prisoners of war or their families. These national agencies, some of which were National Red Cross Societies, drew up lists of beneficiaries who met the criteria for qualification as set out in Article 16 or specified during the sessions of the working group.

As to the ICRC, it was represented at the sessions of the working group or the executive committee every time matters of general interest were discussed. The fact that its responsibilities included the management and distribution of major assets in many different countries prompted it to set up a supervisory council made up of five Swiss public personalities and presided by Paul Carry, doctor of laws, professor at the law faculty of the University of Geneva and member of the ICRC.\(^{105}\)

The American and British governments set about locating the assets and starting negotiations with the seven countries concerned: Afghanistan, Germany, Italy, Portugal, Sweden, Switzerland and Thailand. The first funds, transferred to the ICRC in September 1953, were Japanese assets in Thailand. Their value was fixed at 2,500,000 US dollars and the corresponding amount paid half in dollars and half in pounds sterling.

The funds from other countries holding Japanese assets being slow to come in, Japan was asked to transfer the equivalent amount to the ICRC, which dispatched a member of its supervisory council to Tokyo in order to convince the Japanese authorities. In the autumn of 1954, the executive committee of the beneficiary powers sent a delegation to Tokyo to sign an agreement with the Japanese government under which 4,500,000 pounds sterling would be paid to the ICRC in May 1955, again half in US dollars and the other half in pounds sterling.

The total amount received by the ICRC came to 2,696,428 pounds sterling and 7,542,000 US dollars. The sums in question were invested without delay, while the ICRC waited for the national agencies to provide it with the information needed to determine the number of beneficiaries entitled to payments in each of the relevant countries and to calculate on that basis the amount to be paid to each country.\(^{106}\)

Under Article 25 of the peace treaty, the Allied powers had to have signed and ratified the treaty in order to benefit from its provisions.

Among the Allied powers, Czechoslovakia, Poland and the Soviet Union, all three represented at the San Francisco Conference, had failed to sign the treaty. Burma, India and Yugoslavia had not sent representatives. China, divided, had not been invited.

Among the signatory powers, Indonesia had not ratified the treaty.

As to the United States, it had relinquished the benefits due under Article 16 in a declaration made at the San Francisco Conference.

To determine which Allied powers meeting the requirements of Article 25 would be the beneficiary powers, the ICRC launched several appeals inviting them to inform the organization whether any members of their armed forces had been taken prisoner of war by Japan. In 1955, the list of 14 beneficiary powers was drawn up as follows: Australia, Belgium, Cambodia, Canada, Chile, France, Great Britain, the Netherlands, New Zealand, Norway, Pakistan, the Philippines, Syria and Vietnam.\(^ {107}\)

When working to determine the criteria on the basis of which to ensure equitable distribution of Japanese assets, the ICRC sought inspiration from the Fundamental Principles of the Red Cross, as well as being guided by the intentions of the High Contracting Parties. It also strove to ensure that the proposed solutions were in line with what was practically possible and would not cause delays in indemnification-related operations incompatible with the ultimate objective. This would have been the case if it had had to try and distinguish between cases on the basis of the level of suffering endured, carrying out thousands of enquiries to that end and then comparing the findings. The ICRC therefore suggested to the working groups of the beneficiary powers that they adopt the hypothesis that, for the total number of prisoners of war, the proportion of prisoners having experienced “excessive suffering” would be assumed to be the same for each of the national groups. Consequently, it was decided that the amount allocated to each beneficiary power would be directly proportional to the number of its nationals held prisoner of war by the Japanese.

It was therefore necessary to determine the number of beneficiaries per country in order to calculate the amount per individual and thus the sum the ICRC had to pay to each national agency. The task of working out the number of former prisoners of war held by Japan was started by the ICRC in November 1953 and proved to be highly complex, involving the drawing up of lists by the national agencies to be sent to the ICRC by the States, the checking of these lists by the ICRC and the special

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\(^{106}\) Ibid., pp. 9–11.

\(^{107}\) Ibid., pp. 12–13.
challenges posed by the Philippines – which was late in ratifying the peace treaty with Japan – and by Vietnam, which was divided at the time.\textsuperscript{108}

To prevent undue delays for former prisoners of war in countries for which the total number of prisoners had already been determined, the ICRC agreed to distribute the Japanese assets in two phases, in accordance with the criteria drawn up together with the working group of the beneficiary powers and after having set aside reserves for the two countries for which final numbers had not yet been obtained.

The ICRC made the first lot of payments to national agencies in November 1956. Individual shares, paid half in US dollars and half in pounds sterling, amounted to some 13 pounds sterling and 35 dollars.

The cases of Vietnam and the Philippines having been settled, the second payment was made to the national agencies in 1961, in the amount of some 2 pounds sterling and 4 dollars per beneficiary. The total number of beneficiaries in the 14 countries concerned was 203,599.\textsuperscript{109}

It was the national agencies’ task to distribute the funds received from the ICRC to the beneficiaries.\textsuperscript{110}

Following the second distribution, a reserve amount was withheld to have funds available to settle a small number of problem cases that had not yet been resolved. A third and final distribution eventually took place in 1972, when some 500,000 Swiss francs were shared out among 11 countries.\textsuperscript{111}

\begin{itemize}
\item \textsuperscript{108} Ibid., pp. 17–27.
\item \textsuperscript{109} Regarding the distribution among national agencies and the tables of the two distributions, see the Report on the Activity of the International Committee of the Red Cross for the Indemnification of Former Allied Prisoners of War in Japanese Hands, op. cit., pp. 26–29 and 36–37.
\item \textsuperscript{110} Ibid., pp. 30–34.
\item \textsuperscript{111} Jean-François Golay, Le financement de l’aide humanitaire: l’exemple du Comité International de la Croix-Rouge, Peter Lang, Bern, 1990, pp. 113–114.
\end{itemize}
CHAPTER 4
Displaced persons and refugees

According to different estimates, between 30 and 40 million people were caught up in the different population movements caused by the Second World War. These included: population transfers and exchanges concluded at the beginning of the war between Hitler’s Germany on the one side and Italy, the USSR, Romania, Croatia and Bulgaria on the other, aimed primarily at bringing people of German origin or German-speaking – known as Volksdeutsche – into the Third Reich; the implantation of German settlers in Posen, Carinthia and the Sudetenland, driving away the native Polish, Slovenian and Czech inhabitants; the transplanting of populations by Stalin; prisoners of war, civilian deportees and forced labourers; the exodus of German communities fleeing the advance of the Soviet armed forces; and the mass expulsions of the Volksdeutsche at the end of the conflict.

At the end of the war, there were reckoned to be over 11 million displaced people and refugees of non-German origin in Europe.¹ They were mainly in the sectors under the authority of the Supreme Headquarters of the Allied Expeditionary Force (SHAEF) in Germany, Austria and Italy, but also in the Soviet occupation zones of Germany and Austria, and in the countries of Eastern Europe under Soviet control. Unlike prisoners of war, who were the responsibility of the military authorities, these people – civilian deportees, forced labourers, and refugees – fell within the mandate of the United Nations Relief and Rehabilitation Administration (UNRRA),² which was supposed to organize their departure and to see to their welfare in the meantime. However, immediately after the war it was the military authorities, who also

¹ Today, the term “displaced persons” refers solely to people who are displaced within their own countries. At the end of the Second World War, it was used more broadly to denote all military and civilian persons who, for whatever reason, were far from their homes, whether within or outside their country of origin. The term “refugee” applied to people who were considered such before the war, according to the definitions adopted by the intergovernmental organizations responsible for them, such as the Office of the High Commissioner for Refugees, set up in 1921 to help the Russian refugees, and the Intergovernmental Committee on Refugees, created in 1938 for the victims of Nazism. The term “refugee” gradually came to denote people who were displaced outside their home country and who refused to return there. Once the repatriation of displaced persons had ended, only refugees remained.

² UNRRA was established by 44 States in November 1943 in order to bring relief supplies to United Nations countries impoverished by the war and to speed up the repatriation of displaced nationals of these countries. On the concept of “United Nations”, see following note.
had the task of vetting displaced persons in the camps, that arranged the repatriation of almost all United Nations nationals, in cooperation with the governments of the countries concerned. Thus, in late September 1945, the military authorities repatriated more than seven million displaced people from Germany, Austria and Italy, using the huge logistical capacity of the United States.

Bilateral negotiations, which had begun in 1944 between the USSR on the one side and Britain and the United States on the other, provided the framework for these repatriations. It was agreed that the military and civilian nationals of these countries should be repatriated as soon as possible after their liberation by the Allied forces. The first operations were already being organized in late 1944. These arrangements were then confirmed at Yalta in February 1945 by US-Soviet and Anglo-Soviet agreements, which stipulated that all persons who had Soviet citizenship before 3 September 1939 should be repatriated to the Soviet Union without exception, regardless of their personal wishes. A similar agreement with France was concluded in Moscow in June 1945.

Various studies have since revealed that, of the 4.25 million Soviet citizens who were repatriated by the Allied forces under the above agreements, tens if not hundreds of thousands were sent home against their will, with some trying to resist by all possible means, including suicide. Once back in their homeland, many of them were sent to labour camps or, in the case of the commanders of units that had fought alongside the Germans, even executed. The mere fact of having been taken prisoner was considered as treason by the Soviet authorities. Most of the forced repatriations took place in the weeks following the end of the war in Europe. After autumn 1945, when the repatriation of Allied prisoners of war

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3 Initially, the term “United Nations” referred to the Allies. It first appeared on 1 January 1942, when the Americans and British proposed that the countries fighting against the Axis adopt a joint resolution called the “Declaration by United Nations”. At first, 26 States signed the declaration. This number increased to 51 on 25 April 1945, on the opening in San Francisco of the conference setting up the future United Nations Organization. After the signing of the Charter on 26 June 1945, the concept of United Nations came to mean members of the international organization. See Philippe Masson (ed.), *Dictionnaire de la Seconde Guerre mondiale*, Librairie Larousse, Paris 1979 (Vol. I) and 1980 (Vol. II), pp. 1322–1323.


was almost complete, the Western Allies relaxed their position. But forced repatriations still took place up to August 1947.\(^7\)

At that time, there were still nearly one million displaced people who could not or did not want to return to the place they had come from. The reasons for this varied. Some, like the Jews, had lost all ties with their former homes and had been cruelly persecuted. Others, like the nationals of some Eastern European countries – Poles, Balts, Ukrainians, White Russians and former Soviet prisoners of war who, willingly or by force, had served in the German army – feared reprisals by their governments. Others yet were unwilling to return for political reasons or because their homes were now part of a different country. All these people were in a particularly difficult predicament as they no longer benefited from the protection of their respective governments. They constituted a hard core of refugees that needed to be helped resettle in a host country. It fell to the Intergovernmental Committee on Refugees (IGCR),\(^8\) from July 1946, to establish a resettlement programme for them, to conclude agreements with the host countries, and to charter ships. On 1 July 1947, the duties of UNRRA and the IGCR were taken over by the Preparatory Commission of the International Refugee Organization (IRO), and then, in August 1948, by the IRO itself.\(^9\)

These international organizations were, however, only authorized to assist clearly defined categories of displaced persons and refugees. The following were excluded from their mandates: war criminals, traitors and people who had voluntarily assisted the enemy forces in their operations against the United Nations; former enemies, that is, in Europe, Austrians, Bulgarians, Hungarians, Italians and Romanians;\(^10\) and any displaced people who were living outside the camps, even Allied nationals. A large proportion of displaced people were in fact living outside the camps, either because they had found work or because they feared forced repatriation.\(^11\) Later on, the eligibility criteria for receiving assistance from the UN agencies were gradually extended to include all non-repatriable people. German nationals who were refugees in their own country and Volksdeutsche nonetheless remained excluded.\(^12\)

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\(^8\) The IGCR was set up at the Evian Conference of July 1938 in order to help victims of the Third Reich’s anti-Semitic policies in Germany and Austria to emigrate and resettle abroad.

\(^9\) The IRO continued its activities until January 1952, when the Office of the UN High Commissioner for Refugees (UNHCR) and the Intergovernmental Committee for European Migration (ICEM) started to function, in January 1951 and February 1952 respectively.

\(^10\) Minutes of the meeting of the Bureau held on 31 January 1946 – ICRC Archives, A PV.

\(^11\) Note by P. Kuhne dated 1 November 1945 on the situation of non-repatriable displaced persons – ICRC Archives, B G 68/00.

By late 1948, more than 10 million displaced people had been repatriated. However, a new flood of refugees poured into Western Europe as a result of political changes in Eastern Europe and the birth of the State of Israel, to which many Jews wished to emigrate.

The ICRC, meanwhile, had received no mandate from the international community regarding displaced people and refugees. It based its actions on the right of humanitarian initiative enshrined in the Statutes of the International Red Cross and worked to promote the Red Cross principle of impartiality, according to which all victims must be assisted without discrimination, irrespective of their nationality, political opinion or other considerations. It received many appeals from displaced people and refugees, which it forwarded to the relevant authorities and organizations. It also collected information on the situation of non-repatriable displaced persons, in particular their living conditions and opportunities for emigration – based on the findings of its delegates who visited the camps, supplemented by information provided by refugee groups and relief organizations – and sent regular updates on the subject to the IGCR and other bodies during 1946 and 1947.

As well as urging other organizations to take action, the ICRC played an active role itself on two levels, one practical and the other legal. But its contribution remained limited, as it was operating outside its field of responsibility. It sometimes also had to curtail its initiatives for political reasons and, as regards material assistance, for lack of resources. It would have liked to do more for refugees, but they were the preserve of the organizations set up by the United Nations.

**Practical activities**

**Assistance, camp visits and the work of the Central Prisoners of War Agency**

Immediately after the war, the ICRC sought to cooperate with the Allied military authorities in provisioning displaced United Nations nationals in Germany, but in vain: its contribution was no longer deemed necessary. It had proposed that its donors allocate to displaced people any relief originally intended for Allied prisoners of war and civilian internees, who had since been repatriated. However, most donors preferred to have their goods returned to them. Meanwhile, the American and British Red Cross Societies pooled everything they had sent to the ICRC, creating a joint stock that could be drawn upon under their supervision and the instructions of the Allied High Command and supplied to displaced persons in the American and British zones. Similarly, the French Red Cross and government decided to assist displaced people in the French zone using stocks from French sources that were in the custody of the ICRC. However, as the occupation authorities were overwhelmed, this way of proceeding gave rise to considerable delays in distribution. The ICRC, meanwhile, was not authorized to take action directly, despite its repeated offers.
Neither was the ICRC allowed to assist, using stocks from the pool, displaced people from countries considered as former enemies by the Allies.\textsuperscript{13}

Cooperation was nonetheless established with UNRRA in the medical field, and in 1945 and 1946 the ICRC, jointly with the Swiss Red Cross and the Swiss Relief Fund,\textsuperscript{14} sent medical teams to several displaced persons’ camps in Germany, Austria and northern Italy. Their task was to assess health needs, detect cases of tuberculosis and distribute medical supplies.\textsuperscript{15}

On the whole, though, the ICRC’s relief action remained very modest for lack of means. It was limited to handing over donations to specific categories of refugees (Balts, Hungarians, Romanians, Ukrainians and Yugoslavs)\textsuperscript{16} – provided by their compatriots living abroad and by different relief organizations – who were receiving no assistance from the specialized agencies and for whom the ICRC was the only possible intermediary.

The ICRC’s delegates nevertheless continued to visit displaced persons’ camps, mainly in Italy, Germany and Austria, and, from 1947, in Greece, where they made specific suggestions on ways to improve the living conditions and distributed relief where possible. They also urged the Allied authorities not to repatriate refugees against their will and sought to facilitate the repatriation of hundreds of German nationals from Italy, a process that was beset with obstacles until 1950.

Through its Central Prisoners of War Agency, the ICRC launched a number of initiatives aimed at helping dispersed family members restore contact and exchange correspondence. However, in 1946, the ICRC found that this task had been taken out of its hands by UNRRA, despite the positive results of the ICRC’s efforts up to then and the fact that UNRRA had at first considered making use of its services. For, in the meantime, at the instigation of the Allied Control Council, UNRRA had opened a Central Tracing Bureau in order to trace the millions of people who had either been detained in Nazi concentration or labour camps or displaced in the Third Reich during the war, collect all possible documents concerning those people and reunite separated families. The Bureau, which was opened in Frankfurt and then moved to Arolsen, near Kassel, in early 1946, was recognized by the Allied authorities.


\textsuperscript{14} The Swiss Relief Fund for Victims of War (Le Don suisse pour les victimes de la guerre) was set up in late 1944 thanks to a Swiss government grant of 100 million Swiss francs, subsequently increased to 136 million. A public collection among the Swiss people brought in a further 47 million francs. See Report of the Joint Relief Commission of the International Red Cross, 1941–1946, ICRC-League of Red Cross Societies, Geneva, 1948, pp. 185 ff.


\textsuperscript{16} Note by E. de Ribaupierre dated 5 July 1947 on the problem of displaced people and the organizations that could help them – ICRC Archives, B G 68/00.
as the only body qualified to handle the cases of displaced people, which included the search for separated family members. According to the ICRC’s special delegate in Germany, Auguste Lindt, this about-turn was the work of the Soviet authorities, who objected to the ICRC’s carrying out this task.\footnote{Minutes of the meeting of the Bureau held on 25 April 1946 – ICRC Archives, A PV. Report of the International Committee of the Red Cross on its activities during the Second World War (September 1, 1939–June 30, 1947), Vol. I, op. cit., p. 668, and Vol. II, “The Central Agency for Prisoners of War”, ICRC, Geneva, 1948, pp. 308–315.}

Later, when UNRRA was dissolved, the Central Tracing Bureau was entrusted to the IRO, which gave it the official name of International Tracing Service (ITS).

The ICRC also created a travel document to help displaced people and refugees without identity papers to return to their homes or emigrate to the country of their choice. It issued capture certificates to former prisoners of war, which they needed in order to be declared eligible for aid from the IRO and to receive its support in emigrating.

Lastly, the ICRC helped reunite children with their families, torn asunder because of the war. This involved children from Eastern Europe who were now in Germany, and vice versa. Although in many cases the children’s parents fell within the mandate of the IRO, they appealed to the different ICRC delegations, as the IRO was not always in a position to take concrete action.


**The International Tracing Service**

From 1949, the question periodically arose about the ICRC taking over responsibility for running the ITS. First sounded out about this by the IRO in mid-1949, the ICRC found it logical that the individual data collected by the ITS should be incorporated into the Central Agency’s documentation but considered a complete handover of tasks to be premature, as the ITS was still actively tracing missing people on the ground. The ICRC nonetheless expressed its willingness to reconsider the matter once the ITS had completed its field work and had become a centre devoted to responding to enquiries based on the documents in its possession.\footnote{At the time, the Central Agency for Prisoners of War had the task of centralizing requests and instigating tracing in the field by the national information bureaus.}
excluding an ICRC role at a later stage, the IRO finally turned to the Allied High Commission for Germany, which started running the ITS in April 1951.\footnote{Minutes of the meetings of the Presidential Council held on 7 July, 29 September, 13 October and 3 November 1949 – ICRC Archives, A PV. Letter of 26 September 1949 from the ICRC to the IRO and letter of 22 October 1949 from the IRO to the ICRC – ICRC Archives, B G 68/IRO.}

The problem resurfaced in late 1953. As part of the negotiations on the end of the occupation regime in the Federal Republic of Germany, the Allied High Commission, due to disappear, had to find a successor to run the ITS. The ICRC was keen “to restore to the Central Agency an activity that fell within its traditional purview and should have been entrusted to it from the outset”,\footnote{Minutes of the plenary session of the ICRC held on 6 May 1954 – ICRC Archives, A PV.} and had already reiterated its interest. During the ensuing talks, the ICRC’s conditions were basically met, namely: respect for the fundamental principles governing the work of the Central Agency regarding the use of ITS documentation; the equal treatment of enquiries, irrespective of their country of origin; management and effective control of the ITS; and financial guarantees. In the end it proved impossible, however, to integrate the ITS’s documentation into the Central Agency’s, for technical and logistical rather than legal or political reasons.\footnote{Minutes of the meetings of the Presidential Council held on 3 December 1953 and 24 February 1955 (and its annex). Minutes of the working session of the Committee held on 21 January 1954 and of the plenary session of the ICRC held on 6 May 1954 (and its annex) – ICRC Archives, A PV.}

Two agreements on the continuation of the work of the ITS and the transfer of responsibility to the ICRC were concluded on 6 June 1955 in Bonn.\footnote{Minutes of the meetings of the Presidential Council held on 26 May 1955 and of the plenary session of the ICRC held on 2 June 1955 (and its annex) – ICRC Archives, A PV.} The first agreement, signed by Belgium, France, the Federal Republic of Germany, Israel, Italy, Luxembourg, the Netherlands, the United Kingdom and the United States, set up an International Commission for the ITS. The second agreement, on the relationship between the International Commission and the ICRC, was concluded between the Chairman of the International Commission, acting on behalf of the nine Member States, and the ICRC, and was an annex (Annex A) to the first.\footnote{United Nations – Treaty Collection, Vol. 219.}

Under these agreements, the governments of the nine above States agreed to transfer to the ICRC – in light of its neutral, impartial and universal character and its capacity to take on such a responsibility – the direction and administration of the ITS. The ICRC was to appoint and remunerate the director of the ITS, who was to be a Swiss national, and the Federal Republic of Germany was to cover the running costs. The International Commission had the duty of ensuring coordination among the different governments in matters relating to the ITS and of providing directives, agreed with the ICRC, for the operations of the ITS. As for the ITS, its mission was to collect, classify, preserve and use the documents relating to Germans and non-Germans who were interned in Nazi concentration or labour camps, or to non-Germans who were displaced as a result of the Second World War. It was required to provide, free of charge, all information found in its archives that might be useful to interested individuals or governments who requested it.
In 2007, the ICRC was still in charge of managing the ITS under the supervision of the International Commission, which by then had 11 Member States (the above nine plus Greece and Poland).  

**Forced repatriations**

The repatriation by the Allies of displaced people from Western Europe took place without major difficulty. By contrast, the return home of many Eastern European citizens was fraught with problems. Hundreds of thousands of them did not wish to be repatriated, for fear of persecution or reprisals. These included former prisoners of war – who had fought against or for Germany – civilian deportees, forced labourers, voluntary emigrants and people who had fled the fighting. 

In late 1944 and early 1945, the ICRC had already expressed its concern about the fate of Russian soldiers captured by the British armed forces following the Normandy landings, but to no avail. The Foreign Office had informed it that all Soviet citizens captured wearing German uniforms had declared that they were forcibly incorporated into the German army. They were therefore treated as liberated Soviet citizens, in accordance with the agreement signed with the Soviet government in Yalta. 

In June 1945, after receiving appeals from different refugee groups, the ICRC started to examine the problem of forced repatriations from the overall perspective of displaced persons and not just of prisoners or former prisoners of war. As these people were under the jurisdiction of the Allied governments, the ICRC deemed the Intergovernmental Committee on Refugees (IGCR) – in which these governments, including the USSR, were represented – to be the organization responsible. The ICRC therefore decided on a series of steps. First, it would send a memorandum to the IGCR.

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25 From its inception until 2007, the ITS provided over 10.6 million replies regarding former victims of persecution from the Second World War. Originally set up to search for missing persons and reunite them with their families, one of the service’s most important activities over time consisted of furnishing, free of charge, the necessary certificates so that people could obtain pensions or compensation. In 2006, the International Commission decided to open the ITS archives for historical research. Readers interested in the ITS, its history, activities and working methods should consult the following publications: Charles-Claude Biedermann, *More than 10.5 million: 60 Years of History and Benefit of the Personal Documentary Material about the Former Civilian Persecutees of the National Socialist Regime Preserved in Bad Arolsen*, ITS, Bad Arolsen, 2003; Erich Henschel, *The National Socialist Persecution as Reflected in the ITS documents, 1996* (2nd edition); *International Tracing Service*, ITS, 1993; Charles-Claude Biedermann, “International Tracing Service: 50 years of service to humanity”, *IRRC*, No. 296, September–October 1993, pp. 447–456; Paul Reynard, “The International Committee of the Red Cross and the International Tracing Service in Arolsen”, *IRRC*, No. 296, September–October 1993, pp. 457–463; Marc Hillel, *Les archives de l’espoir*, Fayard, Paris, 1977; Gradimir Djurovic, *The Central Tracing Agency of the International Committee of the Red Cross*, Henry Dunant Institute, Geneva, 1986, pp. 179–188.

26 See p. 150 above.

urging it to deal with the matter of refugees who did not want to return to Eastern Europe. If this bore no fruit, it would make similar representations to the American, British and French governments. It would also instruct its delegation in Germany to make sure, to the extent possible, that the western Allied authorities did not repatriate against their will any people who were able to claim a nationality other than Soviet. Lastly, it would get in touch with organizations that could provide relief to these refugees. The situation was delicate, as the ICRC well knew, as the Soviet authorities made the repatriation of former Allied prisoners of war liberated by the Soviet army conditional on the repatriation of their own nationals.28

A memorandum was thus sent to the IGCR on 21 August 1945. In it, the ICRC’s interim president, Max Huber, apprised Sir Herbert Emerson, the director of the IGCR in London, of the main groups of refugees who had approached the ICRC for help – Balts, Ukrainians,29 Russians, Armenians, Azeris, Georgians, Poles and Hungarians – and the fact that, according to them, their personal safety would be endangered if they were repatriated. It was not up to the ICRC, he added, “to determine whether the fears of those people who at present refuse to return to their country are founded or not, but (...) it would be consistent with humanitarian principles, and with the traditional policy of the Allied authorities, not to impose repatriation on those who are not willing to accept it. The International Committee of the Red Cross has already tried to obtain clarification of the intentions of the Allied occupation authorities through the intermediary of its delegates, who were instructed to draw their attention to the dangers presented by an attitude contrary to the principle set forth above.” President Huber further asked the IGCR to support the ICRC’s representations to the Allies, so as to ensure that they gave the problem its due importance. The memorandum also touched on different issues such as the search for host countries for refugees who refused to return to their homes, the provision of identity papers to those who had none, and the need for a large-scale relief operation, as most of the refugees were in a wretched material situation. In conclusion, the ICRC asked the IGCR to confirm that all the categories of refugees it had enumerated did indeed fall within the IGCR’s sphere of action and, if this were not the case, to indicate which ones the ICRC could help and how.30

28 Minutes of the meeting of the Bureau held on 27 June 1945 – ICRC Archives, A PV.
29 Illustrating the complexity of the problem, Ukrainian refugees could be divided into the following categories: people from Galicia who were Polish nationals from 1923 to 1939; people from western Ukraine who had Czechoslovak nationality before the war; former emigrants from eastern Ukraine who held Nansen passports; people from eastern Ukraine who had Soviet citizenship before the war; and Ukrainians who had Romanian nationality before 1939. Among these refugees were also people who had emigrated before 1939, a very large number of civilian workers and prisoners of war, people who had emigrated voluntarily after 1939 and people who had served in the German army. The Western Allies chose 3 September 1939 as the cut-off date for determining the nationality of displaced persons and refugees.
30 Letter of 21 August 1945 from M. Huber to Sir Herbert Emerson, IGCR, London – ICRC Archives, B G 68/00.
On receiving the memorandum, the IGCR deputy director reassured the ICRC orally that any refugees who did not wish to be repatriated would not be forced to go, with the exception of Soviet citizens, in accordance with the Yalta agreements, and former enemy nationals. He emphasized, however, that the question of the repatriation of refugees was delicate, and political, and could not be resolved through discussions at this level. It was indeed in the interests of the Western Allies to help the greatest possible number of refugees to return home. Also, the Eastern European countries they hailed from were in dire need of manpower, a fact that would certainly encourage them to seek the refugees’ return. The question of relief, meanwhile, was a matter for UNRRA. As for the IGCR’s mandate, it was for the time restricted to refugee victims of Nazism and fascism. According to a decision adopted in August 1944, it could only take responsibility for other categories of refugees if its executive committee so decided. The IGCR was preparing, though, to support UNRRA during the current transitional period and to assist people who had suffered persecution. The IGCR deputy director lastly asked the ICRC to forward to him any cases it knew of that violated the Allies’ policy of not repatriating refugees against their will, subject to the above-mentioned exceptions.

In the following months, the ICRC continued to receive petitions regarding displaced people who were forced to return to their home countries against their will. In November 1945, it attended, as an observer, the plenary meeting of the IGCR in Paris. There it learned that the Soviet government objected to any extension of the IGCR’s mandate to categories of refugees other than those originally foreseen, and that the organization’s activities were much less extensive than it had previously assumed. Meanwhile, the British government proposed bringing the refugee question before the UN.

Still not having received a written response to its memorandum in mid-December, the ICRC contacted the IGCR again to ask where and to whom it should direct the growing number of appeals reaching it concerning displaced people. These involved requests for emergency relief but also for support in emigrating or settling in their current country of residence. In its reply of 9 January 1946, the IGCR said it was ready to receive any information that the ICRC could communicate on the situation of the refugees. At the same time, it confirmed that its terms of reference did not allow it to deal with displaced people who refused to go back to their homes. Thus, in late January, the ICRC decided to address solemn representations to all governments,
reiterating certain key principles, and to publish them in the International Review of the Red Cross.\textsuperscript{33}

Meanwhile, the refugee problem was the subject of hot debate within the United Nations, where Eleanor Roosevelt (widow of US President Franklin Roosevelt, who had died in April 1945) took a clear stand against forced repatriations. Two divergent trends were apparent. Advocates of the first, predominant approach considered that the question of the repatriation of displaced people and refugees fell within the mandate of the United Nations, in accordance with its Charter. They wanted to guarantee that these people had the freedom of individual decision. Meanwhile, supporters of the other approach, from the Eastern bloc, held that repatriation was the only legitimate solution and that any difficulty found in carrying it out was due to the presence among the displaced persons of many war criminals who refused to go back to their own country.\textsuperscript{34} In essence, this divergence reflected two opposing views of the relationship between the individual and the State.

These discussions led to a resolution, adopted unanimously by the UN General Assembly on 12 February 1946, which referred the refugee problem to the Economic and Social Council for examination in all its aspects. On the question of repatriations, the resolution recommended that the Council adhere to the following principles: “No refugees or displaced persons who have finally and definitely, in complete freedom, and after receiving full knowledge of the facts, including adequate information from the governments of their countries of origin, expressed valid objections to returning to their countries (...) shall be compelled to return to their country of origin.” The General Assembly added nonetheless that “the main task concerning displaced persons is to encourage and assist in every way possible their early return to their countries of origin” and that no action “shall be of such a character as to interfere in any way with the surrender and punishment of war criminals, quislings and traitors”. It also urged the Economic and Social Council to make provision for the setting up of an international body to deal with displaced persons and refugees who did not wish to be repatriated.\textsuperscript{35}

In light of these developments, the ICRC suspended its decision to send formal representations to all governments. However, it informed Eleanor Roosevelt that it continued to receive information about imminent forced repatriations.\textsuperscript{36} Then, as the UN resolution of 12 February was not always rigorously applied, the ICRC returned


\textsuperscript{36} Minutes of the meeting of the Bureau held on 14 February 1946 – ICRC Archives, A PV. Letter of 14 February 1946 from M. Huber to Eleanor Roosevelt – ICRC Archives, B G 68.
to the idea of formal representations. After various drafts and some delays, it finally limited itself to sending a letter to the foreign ministries of the United States, France and the United Kingdom, in which it referred to the UN resolution and called for the creation of an international agency responsible for looking after refugees, as recommended by the General Assembly. It also asked to which military or civil authority it could send the many applications that it received from displaced people in the territories controlled by these three governments. On 24 May, the British Foreign Office replied that the ICRC should address these cases to the authorities responsible for the territories where the petitioners were located. Four days later, the French government told the ICRC that it could submit these cases to a department of its Ministry of Foreign Affairs, the Directorate for Unions. On 11 June, the US government replied that they could be submitted to the general command of the US forces in the European theatre, in Frankfurt and Vienna.

From then on, the ICRC refrained from taking a public position on forced repatriations. Instead, it approached the relevant authorities on a case-by-case basis, as it had done before, mainly through its delegations in Germany, Austria and Italy, whenever this seemed opportune. It also sought to help refugees to emigrate by providing travel documents.

**Russian internees in Switzerland**

The ICRC also concerned itself with the issue of forced repatriations from Switzerland, which during the war had temporarily taken in nearly 1,000 Soviet prisoners of war and civilians who had escaped from Germany, as well as other refugees. From April 1943, an ICRC delegate visited these people regularly in camps, at their workplaces, where they were under house arrest, and in hospitals.

During a first repatriation operation on 17 and 18 October 1944 – involving some 800 military internees and 150 civilian refugees – the ICRC appealed urgently to the Swiss authorities to defer the repatriation of some 15 people who did not want to return to the USSR, as they feared for their lives. Soon after, the ICRC president, Max Huber, sent a letter to Federal Councillor Karl Kobelt, director of the Swiss Federal Military Department, laying out the ICRC’s position that escaped prisoners of war should not be repatriated against their will, for both humanitarian and legal reasons. Supporting this statement, he referred to the spirit of the 1929 Geneva Convention on prisoners of war but especially the Fifth Hague Convention of 1907 on the rights and duties of neutral powers, in particular Article 13, which he expounded at length. In the event, despite the negative decision in principle by the Internment and Hospitalization

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37 Minutes of the meetings of the Bureau held on 28 February, 14 March, 4 April, 25 April and 16 May 1946 – ICRC Archives, A PV. Letters of 6 May 1946 from Max Huber to the American, British and French foreign ministers and their replies – ICRC Archives, B G 68.

38 This article reads as follows: “A neutral Power which receives escaped prisoners of war shall leave them at liberty. If it allows them to remain in its territory it may assign them a place of residence.”
Commission, around 40 people stayed in Switzerland, and Kobelt informed the ICRC that the Swiss authorities would re-examine the issue from a legal point of view.39

At the end of the war, a further 10,000 Soviet soldiers and civilians who had escaped from camps in Germany crossed the border and were interned in Switzerland. As one delegate was no longer enough, the ICRC appointed a second one to visit them. It also forwarded to the relevant military and civil authorities the petitions it received from those who did not wish to be repatriated and again urged them not to take measures of an anti-humanitarian nature.40

The attitude of the Swiss authorities appears to have oscillated: first they decided that no one who opposed repatriation would be forced to go, then that all Russians should join the repatriation convoys, and, lastly, but without publicizing the fact, that anyone who refused would not be expelled.41

This fluctuation can in part be explained by the fact that Switzerland was seeking to restore diplomatic relations with the USSR,42 at a time when the latter was accusing it publicly of ill-treating Soviet internees. In June 1945, the USSR requested information on their conditions of internment and the measures taken to organize their repatriation and announced its decision to suspend the repatriation of Swiss diplomatic and consular officials and other Swiss nationals living in the USSR and the Eastern European countries under its control. Invited by Bern, a Soviet commission visited Switzerland in late July 1945 to investigate the treatment of Soviet internees and discuss repatriation procedures.43

40 Note of 28 May 1945 by G. Dessonnaz on his visit to Dr Jetzler, head of the Police Division of the Federal Department of Justice and Police, on 18 May 1945. Note of 15 August 1945 from G. Golay, ICRC adviser, to H. Bachmann. Instructions of 21 August 1945 from P.E. Martin to the delegates in Switzerland. Letter of 21 November 1945 from D. Barbey to Colonel Zürcher, CFIH chief of staff. Note of 29 April 1946 from J. d’Amman to the USSR department of the Central Agency for Prisoners of War – ICRC Archives, B G 2. Several letters forwarding individual requests are also to be found in files B G 85 and B G 2.
41 Memorandum of 10 August 1945 to the Foreign Affairs Division of the Swiss Federal Department of Foreign Affairs (unsigned document). Minutes of the meeting, held on 17 August 1945, between W. Stucki, head of the Foreign Affairs Division of the Swiss Federal Department of Foreign Affairs, and P.E. Martin, member of the ICRC – ICRC Archives, B G 85.
42 Interrupted in 1918, diplomatic relations between the USSR and Switzerland were restored in March 1946.
In the end, around 7,000 military internees and 2,700 civilian refugees were repatriated to the USSR in a series of operations between August and October 1945.44 After that, 380 Soviet soldiers and 150 civilians remained in Switzerland.45 The soldiers, who were mainly from the Caucasus region, opposed their repatriation vigorously and en bloc. Many of them were later taken in by Turkey.

The issue of forced repatriation, avoided at the Diplomatic Conference of 1949, was to resurface during the Korean War.46

Travel documents

The birth of travel documents

Already during the Second World War, after the armistice in Italy, many liberated prisoners of war and civilian internees who had lost their identity documents asked ICRC delegates to provide them with certificates to facilitate their return to their countries of origin. The delegates issued documents which generally served as safe conducts for their bearers. In many cases, the authorities legalized them by stamping their visa on the back. ICRC delegates in Romania delivered certificates to Jews wishing to emigrate to Palestine.47

Building on this experience, and in order to plan ahead, in the second half of 1944 the ICRC started studying the possibility of creating a travel document for displaced people – prisoners of war, civilian internees, deportees, forced labourers and refugees – who would wish to return home once the fighting had ended but had no official documents, as these had been confiscated by the detaining authorities, got lost, or expired, etc.

From the outset, the ICRC knew there was a risk that some people, over whose identity it had no control, might procure travel documents wrongfully. Improper use of this kind would be harmful to the ICRC, damage its reputation and weaken the value of its emblem. Some ICRC members advocated providing such documents to prisoners of war but felt that extending them to all displaced people was too risky. Others considered this distinction to be arbitrary, as it would be difficult to determine

45 Note of 1 August to the USSR department of the Central Agency for Prisoners of War – ICRC Archives, B G 2. Regarding those who were repatriated, research in the ICRC archives did not reveal whether forced repatriations had actually taken place or not.
46 See pp. 244 and 519 below.
47 Minutes of the meeting of the Legal Commission held on 20 September 1944 and of the Bureau held on 6 December 1944 – ICRC Archives, A PV. Note M 1067 on document 10.100 by R.-M. Frick-Cramer, member of the ICRC, dated February 1945 – ICRC Archives, B G 68/00/Ti.
whether someone had been a prisoner of war or not. Finally, faced with the alternative of forbidding its delegates from providing any documents at all or, instead, giving them free rein to issue them themselves, the ICRC decided, for humanitarian reasons, to take a calculated risk and chose a third option: it would draw up a standard travel document in Geneva, meaning that it could take certain precautions as regards the form, and send it to its delegations with precise instructions.\footnote{Minutes of the meetings of the Bureau held on 29 November, 6 December and 13 December 1944 and on 6 January 1947 – ICRC Archives, A PV.}

This travel document, to which the ICRC assigned the reference number 10.100, was to be issued only to people who had no other identity document or passport and were unable to procure one, so that they had an ad hoc document on which to receive the necessary visas in order to return to their home country. The design and text of the travel document made it clear that it was not an identity card – it clearly stated that the ICRC could not in any way vouch for the identity of the bearer but merely reproduced the declaration made by the applicant – or a passport, as it was in principle valid for a single trip only. Moreover, it could be issued only if the relevant local authorities recognized it, and after ensuring through an inquiry that the applicant was acting in good faith. To limit improper use and falsification, the delegates also had to observe a set of formal rules for issuing the documents.

To start with, the ICRC assumed that this document would have only limited and temporary use, as the displaced people would receive official documents from the government agencies responsible for their repatriation.\footnote{Note M 1067 by R.-M. Frick-Cramer, cited above. Letter of 8 August 1949 from E. de Ribaupierre to the ICRC’s resident delegate in Bombay – ICRC Archives, B G 68/00/Ti.}

In autumn 1945, the ICRC decided to adapt the wording on its travel documents. Its delegates had found that former prisoners wishing to return to their countries of origin could usually be repatriated by the Allied authorities without having to show any documents. But those who did not want to go back needed a travel document in order to obtain the necessary visas for departure to a host country. Travel document 10.100 was thus transformed into a similar document, called 10.100 B, which could be used for three purposes: repatriation, emigration, and, if need be, to justify the bearer’s presence in the place where he happened to be.\footnote{Note of 22 July 1947 by P. Kuhne on ICRC travel documents – ICRC Archives, B G 68/00/Ti.}

As time went on, however, the ICRC realized that additional guarantees were needed with regard to the issuing of these documents. Thus, as well as having no valid passport and being unable to obtain a new one, applicants had to have received authorization to leave their country of residence and the promise of an entry visa to the one they wished to go to.\footnote{Ibid. Minutes of the meeting of the Bureau held on 28 May 1946 – ICRC Archives, A PV. Report of the International Committee of the Red Cross on its activities during the Second World War (September 1, 1939–June 30, 1947), Vol. I, op. cit., pp. 669–671. Summary Report on the Work of the International Committee of the Red Cross (1st July 1947–31st December 1951), op. cit., p. 24–25.
The ICRC’s work in this field grew mainly in those countries where consular services had been quickly restored, such as Italy, Czechoslovakia (until 1947) and Austria. In Germany, the Allied authorities created a travel document available to Germans and foreigners alike in February 1947, after which the ICRC travel document was no longer necessary.\(^{52}\)

From 1946, the ICRC wished to end this aspect of its work – which had been motivated by the need to help victims of war who had no diplomatic or consular protection – as soon as an official organization was able to take over the task. Besides financial reasons, it was concerned that these activities, which were linked to the problem of forced repatriations, might give the impression that the ICRC was supporting “a form of dissidence by those recipients who did not wish to return to their home country”.\(^{53}\) On 15 April, it sent a letter to the IGCR suggesting that it take over this work. In its reply, dated 4 June, the IGCR expressed the hope that, until a new, internationally recognized identity document was available, the ICRC would continue to issue document 10.100 B, as it fulfilled a need.\(^{54}\) In October 1946, the representatives of 16 countries meeting in London under the auspices of the IGCR signed an agreement in which they undertook, first, to issue travel documents to refugees who had no identity documents and, second, to recognize the validity of papers issued by the other signatory powers. However, because of delays in implementation by the different signatory countries, the ICRC had to continue its work for much longer than intended, at the request of the people concerned, the IRO (which had succeeded the IGCR) and the host countries. Moreover, some high immigration countries, such as Argentina, would only accept an ICRC travel document where a national passport was lacking.\(^{55}\)

**Improper use**

In 1947, the ICRC was alerted, first through the press and then by the United States ambassador to Switzerland, to the fact that travel documents had been distributed in Italy to people considered to be war criminals. The US authorities reprimanded the ICRC for not taking sufficient precautions in this country where, unlike elsewhere, travel documents had been handed over without requiring the applicants to have an

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\(^{53}\) Minutes of the meeting of the Bureau held on 28 March 1946 – ICRC Archives, A PV.


exit permit. The ICRC dispatched one of its directors to its delegation in Rome to investigate how travel documents were being distributed. He found that this was being done in three ways. (1) The documents were provided directly to people, numbering about 50 a day, who came to the delegation. In this case, the necessary inquiries were conducted by interviewing the applicants directly and completed by sending questions to the leaders of any national or confessionally groups to which the applicants claimed allegiance. Such groups had been set up in response to the circumstances, in some cases already during the German occupation, and were tolerated by the Italian authorities. With no other way of cross-checking the applicants’ statements, the delegation turned to the leaders of these groups, many of whom were priests. It was also they who looked for opportunities for emigration, and entire groups often left together. Thus, Catholics were helped by the Vatican through the Pontifical Aid Commission, and Jews by the main American Jewish organizations. (2) ICRC travel documents were also distributed in IRO camps to people recommended by this organization. (3) They were also issued on the recommendation of AGIUS (Assistenza Giuridica agli Stranieri), an autonomous section of the Italian Red Cross set up to give legal aid to foreigners, and which dealt, in particular, with refugees who were not eligible for IGR assistance.

While in Rome, the ICRC director was also mandated to urge the Italian government to issue its own travel documents and, in the meantime, to ask the IRO and AGIUS to prepare the files of all people to whom travel documents could be granted, so that the delegation would only have to validate these requests. This procedure was put in place from 1948, but despite repeated reminders from the ICRC – which wanted to end this aspect of its work and shut down its liaison office in Rome dealing with the question of travel documents – it was not until December 1949 that the Italian government’s travel document entered into force.56

From then on, the ICRC’s activities in this field dwindled markedly, and by the early 1950s it was issuing only a few dozen or hundred travel documents per year.

The main delegations that provided travel documents were in Prague, Vienna, Salzburg, Innsbruck, Paris, Cairo, Shanghai, Madrid, Genoa, Naples and Rome. The largest number of documents – 67,500 out of a total of 90,000, up to August 1949 – were issued in Italy which, thanks to its many seaports and consular representations of overseas countries, attracted tens if not hundreds of thousands of displaced people and refugees from across Europe, in particular Germans, Ukrainians and Yugoslavs as well as Jews.57

The question of how ICRC travel documents had been issued to war criminals at the end of the Second World War resurfaced in the 1960s. As a result of court cases,  


57 Letter of 8 August 1949 from E. de Ribaupierre to the ICRC’s resident delegate in Bombay – ICRC Archives, B G 68/00/Ti.
the ICRC learned that Adolf Eichmann, Klaus Barbie and Joseph Mengele had all obtained papers using false identities. Barbie had even obtained his, in Genoa, on the basis of a temporary travel document issued in Munich by the High Commission of the Allied Forces. The ICRC, shocked at having been thus taken advantage of, agreed to provide any State authorities – in particular legal authorities – that were investigating or prosecuting war criminals with documentary evidence of the travel documents it had issued.  

Legal work

Definition and status of refugees

The restricted mandates of the IGCR and UNRRA, and then the IRO, meant that certain categories of displaced persons and refugees were excluded from receiving assistance. Like civilians in time of war, they were not protected, as refugees, by any international convention. The ICRC therefore came up with its own empirical, but humane, definition of refugees, namely: all persons who, as a result of events, are unable to live under normal conditions in the place where they happen to be. In the ICRC’s view, this was the real criterion which brooked no discrimination – whether on grounds of nationality, race, creed or opinion – among people who were in a situation of equal distress as a result of circumstances. It was this concept that guided its practical work, and which it initially put forward in the draft new convention on civilians that it submitted to the 17th International Conference of the Red Cross (Stockholm, 20–30 August 1948), in the following article:

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

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4. DISPLACED PERSONS AND REFUGEES

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

This provision was, however, not included in the final text of the Fourth Geneva Convention of 1949 relative to the Protection of Civilian Persons in Time of War. The 1949 Diplomatic Conference supported the Canadian delegation’s view that the refugee problem was too vast to be dealt with in a few lines and that it went beyond the scope of the convention. The Canadians also argued that the return of displaced people and refugees to their place of domicile or their resettlement were matters for an organization such as the IRO or the new body that was supposed to be established under international agreements. This view was strongly supported by the Soviet delegation, which “felt it was not possible to transform governments into travel agencies in order to facilitate the return of internees. The obligation on Governments was limited to facilitating the return of internees to the place where they had resided before being interned.”  

As we have seen, this position was fully in line with that adopted by the Soviet Union after the Second World War regarding the repatriation of its nationals.

In a second stage, while a draft international convention on refugees was under consideration at the UN, on 1 May 1950 the ICRC addressed an appeal, signed by its president, Paul Ruegger, and honorary president, Max Huber, to all governments and National Red Cross Societies. Its goal was twofold: to influence the content of the draft convention and to make a clear case for an ICRC role with regard to refugees.  

After reiterating the principles of humanity and impartiality underpinning the ICRC’s activities and highlighting the different situations that refugees may find themselves in, the appeal continued: “Whatever complications there may be in individual cases, one thing stands out and it is revolting to the sense of humanity: there are men who find themselves legally and materially barred from ordinary life. For them, the most elementary human rights might as well not exist, for they cannot found a family, recognise a child or, in spite of their longing for normal existence, move to some other place. For a very large number of them, there is no authority to whom they might address themselves in full confidence and which would have, in regard to them, a competence recognised between nations.” Then, referring to the fact that an international status of refugee was being studied, the ICRC “draws the attention of governments and the responsible institutions to the vital importance of not limiting, by too strict a definition, the categories of persons who may be entitled to that status, but of leaving the scope wide and comprehensive, taking into account only the unfortunate.


61 Minutes of the plenary session of the ICRC held on 16 February 1950 – ICRC Archives, A PV.
position of those who, today as in the future, may have to avail of it”. It also emphasized “how important it is that there should be a permanent international organisation, impartial and independent, to ensure the protection of refugees – but on the condition that it will, without discrimination, embrace all refugees and stateless persons”. Lastly, deeming it its duty to make good the absence of a protecting authority where such was lacking – in the spirit of the 1949 Fourth Geneva Convention on civilians, and because of its role as neutral intermediary – it urged the governments to state:

a) if they are in agreement with the views expressed above, and, if so,

b) if they are prepared to grant all facilities to the International Committee, to enable it to ensure general assistance and protection to refugees and the stateless, when there is no authority recognised as competent to do so;

c) if they are prepared, with a view to constructive action, to examine with the International Committee, the probable financial demands of such a scheme.\(^{62}\)

In their replies, the governments referred mostly to the fact that the problem was under consideration by the United Nations and that it was up to the General Assembly to designate a High Commissioner for Refugees and to draw up an international convention to regulate their status.\(^{63}\)

On 14 December 1950, the UN General Assembly adopted the statute of the Office of the United Nations High Commissioner for Refugees (UNHCR). In July 1951, the United Nations Plenipotentiary Conference on the Status of Refugees and Stateless Persons met in Geneva. Invited to give the ICRC’s point of view, President Paul Ruegger presented an aide-memoire that recapitulated the organization’s previous statements on the matter.\(^{64}\) The Convention relating to the Status of Refugees was adopted on 28 July 1951.

From that point on, the ICRC acknowledged that the general protection of refugees was outside its purview. It nonetheless continued to step in, in coordination with the organizations mandated to deal with refugees, in cases where none of them were able to take action.


Legal assistance

The ICRC also concerned itself with the question of legal assistance for refugees. Uprooted by the war, in many cases after suffering persecution, displaced people and refugees often did not know the language of the administrations they were now living under and to which they needed to apply in order to stand a chance of rebuilding their lives.

In late 1944, the ICRC received a proposal from a former Iranian diplomat and lawyer then living in Italy, Raphael Aghababian, regarding the matter of legal assistance for foreigners. The Italian Red Cross put his plan into practical application by creating a separate section in charge of this, AGIUS (Assistenza Giuridica agli Stranieri), comprising jurists and lawyers who would advise refugees, give them any necessary legal assistance and support them in their dealings with the authorities. The section focused on foreigners who were not assisted by the IRO, namely Germans and other “non-eligible” refugees, and therefore did not duplicate the UN agency’s work. The question of legal assistance for foreigners was discussed at the Consultative Conference convened by the League of Red Cross Societies in late 1945 and at the Preliminary Conference organized by the ICRC in mid-1946.65 The ICRC and the League then presented a joint report on the subject at the 17th International Conference of the Red Cross in Stockholm in August 1948.66 Drawing on the example of AGIUS, the 17th International Conference recommended “that National Societies include in their activities, should the necessity arise, legal and social assistance to stateless persons, refugees and war victims”, and requested the League and the ICRC “to establish a standard programme in this field.”67

Accordingly, the ICRC and the League submitted a programme to the National Societies in a joint letter on 9 February 1949.68 This met only with limited interest, however. Apart from Italy, only three countries set up legal aid sections, the Federal Republic of Germany, Brazil and Greece, which were later followed by Austria and Argentina. Most National Societies pointed out that other organizations were already dealing with this problem, in conjunction with the governments, many of which had moreover entrusted the IRO with this task.

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The ICRC nevertheless continued to concern itself with this issue, in coordination with the main Geneva-based humanitarian agencies.\(^\text{69}\) Considering that UNHCR, which succeeded the IRO, lacked the financial resources to assist refugees materially and that application of the refugee status provided for by the convention of 28 July 1951 was still far from universal, the ICRC believed that the question was still relevant for the Red Cross. Thus, it urged the National Societies to contribute to implementing the principle, recognized by the International Bar Association, that no person should be deprived of legal counsel for reasons of poverty, by calling on the services of lawyers’ associations to advise refugees without resources. This was to be done in agreement with UNHCR, which was responsible in this field and whose statute moreover stipulated cooperation with relevant non-governmental institutions.

In its report on this point submitted to the 18th International Conference of the Red Cross (Toronto, July–August 1952), the ICRC declared its readiness to support such undertakings, to put national legal aid sections in contact with each other and to share any information it received, acting in cooperation with UNHCR and relevant non-governmental organizations and, of course, the League of Red Cross Societies.\(^\text{70}\) The Conference adopted a new resolution\(^\text{71}\) which called on the ICRC to continue this aspect of its work, which it did in the following years.\(^\text{72}\)

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\(^\text{69}\) For more on the different agencies dealing with the problem of legal aid for refugees, see the article by Henri Coursier, “L’assistance juridique aux réfugiés”, *RICR*, No. 381, September 1950, pp. 661–668.

\(^\text{70}\) 18th International Conference of the Red Cross (Toronto, July–August 1952), report by the ICRC on “Refugees – International Legal Assistance”, doc. A 19 – ICRC Library.

\(^\text{71}\) 18th International Conference of the Red Cross, Toronto, July–August 1952, Summary, Canadian Red Cross, Toronto, Resolution 14, p. 149. *ICRC Annual Report 1952*, pp. 32–33 and 118.

CHAPTER 5

Civilian populations

During the war, the ICRC had assisted civilians mainly through the Joint Relief Commission of the International Red Cross. The vast bulk of the aid went to the population of the Allied countries, mainly in the parts occupied by the Axis forces. After the end of the war, these same countries received aid from the United Nations Relief and Rehabilitation Administration (UNRRA).

Relief and the problem of aid for the defeated

True to the Red Cross principle of impartiality, the ICRC could not disregard the plight of the population of the newly occupied countries or of displaced people who were outside UNRRA’s mandate and receiving no help from anyone else. It also wanted to assist the countries of Central and Western Europe that had been particularly affected by the war. Where it was already carrying out its traditional activities for prisoners of war and civilian internees – as in Poland, Czechoslovakia and Yugoslavia – relief for the general population would moreover complement that provided to prisoners and internees.

In its report on its activities during the Second World War, the ICRC explained why its possibilities for cooperating with UNRRA were limited, namely because of the Red Cross principles of universality and neutrality and the fact that relief should be free. The Joint Relief Commission maintained its independence for the same reasons and offered its services in particular to neutral countries that were not members of UNRRA and to donors wishing to work through a neutral intermediary.

From summer 1945, large shipments of relief were dispatched to the European countries that had suffered most during the war. These did not include Germany.

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1 On the Joint Relief Commission, see pp. 35 ff. above.
2 Minutes of the plenary sessions of the ICRC held on 3 January and 15 February 1946. Minutes of the meetings of the Bureau held on 18 April, 25 April, 25 July, 12 September and 5 December 1946 – ICRC Archives, A PV.
3 UNRRA handed its donations over to governments, which could dispose of them as they wished, including selling them to the public to boost the national economy. Report of the International Committee of the Red Cross on its activities during the Second World War (September 1, 1939–June 30, 1947), Vol. III, “Relief Activities”, ICRC, Geneva, 1948, pp. 380–382.
although it had no national government and was in a state of total collapse: roads and railways had been destroyed and cities flattened, postal services no longer worked and the people were living in wretched conditions, malnourished and at the mercy of epidemics. There were also millions of refugees, Germans from the East, who had fled to the West in the last months of the war, and Volksdeutsche, who had been expelled from Eastern and Central Europe following the Potsdam Agreement.\textsuperscript{4} On top of these were millions of displaced non-Germans, competing for the already scarce supplies of food.\textsuperscript{5} To start with, only sporadic and unofficial relief efforts were possible, as the Allied authorities opposed any international operation to help the German people, fearing that this might leave them better off than the population of the Allied countries ravaged by the war.\textsuperscript{6} As for the German Red Cross, it was dissolved by the Allied powers, leaving only some local branches and the tracing service.

Meanwhile, the ICRC was assailed with appeals concerning the plight of millions of people – including a large proportion of women and children – who were wandering around Germany without shelter or means of existence. On 8 September 1945, the

\textsuperscript{4} See p. 189 below.

In October, the ICRC sent a delegate, Auguste R. Lindt, on a special mission to Berlin, where the Allied Control Council had its headquarters. He was instructed to start negotiations with the four occupying powers with a view to obtaining permission for the International Red Cross, and any other organizations, to provide relief to the German population.\footnote{Minutes of the meetings of the Bureau held on 12 October 1945 and the Delegations Commission held on 25 October 1945 – ICRC Archives, A PV. Note of 24 October 1945 by F. Siorbet concerning the special mission by Dr Lindt – ICRC Archives, B G 3/39c.} By the end of the year his efforts had started to bear fruit: relief shipments were allowed into the British and French occupation zones and Berlin in November and December 1945, into the American zone in March 1946 and into the Soviet zone in April 1946. The agreements reached recognized the ICRC as a neutral intermediary entitled to import relief into Germany. They granted it exemption from customs duties and transport charges on the German railway network – although the Allied authorities then made the recipient German regions bear the transport costs.\footnote{Note of 22 January 1947 and note of 11 October 1947, and its annex, from E. Meyer to the ICRC – ICRC Archives, B SG 7/13. Report of the Joint Relief Commission of the International Red Cross, 1941–1946, ICRC-League of Red Cross Societies, Geneva, 1948, pp. 431–432.}

The ICRC’s delegates were also guaranteed freedom of movement.

At the time, the ICRC, working closely with the Joint Relief Commission, was practically the only private organization officially authorized to bring relief into Germany from abroad. It sought not to set up a relief operation using its own resources but rather to play a key role in negotiation and coordination. To this end, it opened delegations in the different zones of occupation. Under the management of the special delegation in Berlin, these focused on gaining the confidence of the military authorities in charge, organizing logistics, assessing the needs and operational capacity of the German distributing agencies, supervising distributions and obtaining implementation reports.\footnote{Report of the International Committee of the Red Cross on its activities during the Second World War (September 1, 1939–June 30, 1947), Vol. III, op. cit., pp. 402 ff. Report of the Joint Relief Commission of the International Red Cross, 1941–1946, op. cit., pp. 387–396.}

In Austria, too, the ICRC set up delegations in the different occupation zones and made contact with the relevant Allied and national authorities in order to establish the procedures for importing, transporting and distributing relief.\footnote{Report of the International Committee of the Red Cross on its activities during the Second World War (September 1, 1939–June 30, 1947), Vol. III, op. cit., pp. 402 ff. Report of the Joint Relief Commission of the International Red Cross, 1941–1946, op. cit., pp. 387–396.}
Overall, in 1945 and 1946, the Joint Relief Commission sent some 87,000 tonnes of relief supplies worth 161 million Swiss francs. This corresponded to around half the total volume of aid (165,000 tonnes, worth 314 million Swiss francs) delivered from when it was set up in 1941 until the end of its activities on 31 December 1946. The main recipients were the defeated nations, that is Germany (38.9 million Swiss francs), Austria (34.6 million), Hungary (12.3 million) and Italy (12.2 million) but also Allied countries such as France (23.7 million), Poland (7.5 million), the Netherlands (6.7 million) and Yugoslavia (5.6 million). In most cases, the goods were sent to the ICRC delegations, which were responsible for receiving and forwarding them to the various organizations carrying out the distributions – the National Red Cross Societies or other organizations recognized by the authorities – in accordance with the donors’ wishes.  

The liquidation of the Joint Relief Commission

But while the ICRC was building up the relief operation carried out under its aegis, the Board of Governors of the League of Red Cross Societies, meeting in Oxford in July 1946, decided to dissolve the Joint Relief Commission of the International Red Cross within a period of six months. It was to be officially liquidated on 1 November and to wind up its activities by 31 December. It was also decided that the League itself would henceforth take charge of channelling aid from the National Societies, where this could not be done directly from one Society to another, and that the Joint Relief Commission would immediately cease all activities in which it served as the purchasing and transporting agency for non-Red Cross organizations.

This gave rise to the question of whether the ICRC, irrespective of the decision of the Board of Governors, would take over responsibility for channelling donations from non-Red Cross sources, for which it would have to create a special department dealing with relief for civilians. For indeed, the bulk of the supplies delivered by the Joint Relief Commission came from different governments, especially the Swiss and the Irish, as well as national and international humanitarian organizations and private contributors. The fact that the Joint Relief Commission had taken charge of

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12 For details on these operations, see *Report of the Joint Relief Commission of the International Red Cross, 1941–1946*, op. cit., pp. 288–432.

13 See p. 44 above.


15 Information on the “Irish Donation” (over 13,000 tonnes of relief worth around 40 million Swiss francs) and the gift from the Swiss Relief Fund (59,000 tonnes of relief worth 98 million Swiss francs) can be found in the *Report of the Joint Relief Commission of the International Red Cross, 1941–1946*, op. cit., pp. 166–181 and 185–188 respectively.
this relief had, moreover, earned the ICRC the criticism of some National Societies, in particular the American Red Cross, which saw it as a misuse of the emblem.\(^{16}\)

Following lengthy discussions,\(^{17}\) the ICRC discarded this possibility. It decided instead to seek out, with the support of the Swiss authorities and in agreement with the League, an organization that could take over the role of the Joint Relief Commission in respect of non-Red Cross aid, although it was prepared to do so itself in the interim. This was to be the International Centre for Relief to Civilian Populations, which from 1 November 1946 took charge of receiving, purchasing, transporting and distributing relief to civilian victims of war. Under agreements concluded with the ICRC and the League, the International Centre was also to carry out any mandates not yet completed when the Commission ceased its work.\(^{18}\)

The ICRC’s then very precarious financial situation, and the resulting reductions in staff, help explain this decision, which Max Huber described as “painful”. The ICRC was forced to focus on its core mission of assisting prisoners of war and civilian internees. This was all the more pressing, as funding from the Swiss Relief Fund and the Irish government had nearly dried up. The ICRC feared that, in future, it might not receive enough commissions even to cover its administrative costs, based simply on the proportion deducted for this purpose. It was also concerned that donations would increasingly be tied to specific assignments, contravening the principle of impartiality.\(^{19}\) However the ICRC’s decision stemmed also from its position within the Red Cross Movement at the time. If it disregarded the decision taken in Oxford, the ICRC risked upsetting the National Societies, which had just pledged, during the Preliminary Conference of Red Cross Societies, an extraordinary contribution of 15 million Swiss francs to cover the ICRC’s wartime deficit and enable it to continue its traditional activities.\(^{20}\) On top of all this were political considerations. Opposition came not only from some major Western National Societies, which wanted to take on the task of providing relief to the civilian population entirely by themselves but also from the USSR and its Eastern European allies, which objected to an ICRC role in assisting displaced persons.\(^{21}\) And the ICRC, which strongly regretted its forced inaction on the Eastern Front during the Second World War, wanted to keep open a window for action on the Soviet side in case of a new conflict. All these reasons prompted it to proceed cautiously, albeit with a heavy heart.

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\(^{16}\) On the ICRC’s position on this subject, see p. 48 above. See also *Report of the International Committee of the Red Cross on its activities during the Second World War (September 1, 1939–June 30, 1947)*, Vol. III, *op. cit.*, pp. 392–396.

\(^{17}\) Minutes of the meetings of the Bureau held on 12 and 20 September 1946 – ICRC Archives, A PV.


\(^{20}\) See pp. 21 and 55 above.

\(^{21}\) See p. 131 above.
The ICRC’s role after the Joint Relief Commission

This did not mean, however, that the ICRC turned its back on the plight of civilians entirely. It directed its energies to raising awareness of their needs, encouraging donations and continuing to facilitate relief action by offering its services in countries where it had delegations. It hoped in this way to retain a certain presence in this field.\(^22\)

As regards these needs, the ICRC instructed its medical department to carry out studies on the health status of civilian populations, the results of which it shared with the League, the Swiss Relief Fund, the main international humanitarian organizations based in Switzerland and Swiss aid organizations.\(^23\) It took part in the regular meetings between these organizations and supported their appeals on behalf of civilian populations, after ascertaining that the funds raised would be used according to its principles, that is without discrimination of any kind.\(^24\)

In addition, the ICRC supported the League’s efforts to obtain from the Swiss authorities the same privileges (freedom of transit, free warehousing, rapid export facilities) which had been accorded to the ICRC itself and the Joint Relief Commission. It offered the League space in its own warehouses and took charge of sending on supplies. From March to October 1947, the ICRC’s warehouses received more than 650 tonnes of aid on behalf of the League.\(^25\)

In parallel, the ICRC supported the steps taken by the International Centre for Relief to Civilian Populations to obtain facilities similar to those previously enjoyed by the Joint Relief Commission for the transport of goods. It also offered it the services of its delegations in supporting relief operations, on a cost-recovery basis, as long as these complied with the principles of the Red Cross. Thus, in most countries, until the end of 1947, it was ICRC delegates who took delivery of the aid and forwarded it to the various bodies responsible for distribution.

Meanwhile, in West Germany the chaotic immediate post-war period ended and the Marshall Plan, launched in June 1947, paved the way for economic recovery. The German Red Cross was reconstituted on a new basis, up to the level of the Länder.

\(^{22}\) Circular of 24 September 1946 by the ICRC to its heads of delegation on the liquidation of the Joint Relief Commission, annexed to the minutes of the meeting of the Bureau held on 20 September 1946. Minutes of the meetings of the Bureau held on 30 November 1946, 12 December 1946 and 27 May 1947 and of the plenary session of the ICRC held on 6 December 1946 – ICRC Archives, A PV.


in a process encouraged by the ICRC. The ICRC’s involvement therefore no longer appeared necessary in this part of Germany.

At the same time, there was a steady increase in the proportion of donations to the International Centre for Relief to Civilian Populations earmarked for a specific use. The ICRC therefore gradually cut back its involvement in the International Centre’s relief operations, instead supporting its efforts to work directly with the authorities of the three Western occupation zones of Germany and of other countries. By 1948, the ICRC interceded only when its role as an intermediary was requested by the authorities or donors for the sending and distribution of relief, in Greater Berlin, the Soviet zone of Germany and Poland.  

From 1947 to 1951, the ICRC distributed relief worth about 36 million Swiss francs to civilians in Austria, 24.8 million in Hungary (mainly in 1947), 12.6 million in Berlin and East Germany, 9.5 million in Poland (mainly until 1948), 5.6 million in Italy (mainly in 1947) and 1.3 million in West Germany.

The ICRC’s relief work in Berlin and the Soviet zone of Germany in particular deserves a closer look. It is interesting for two reasons: first, it provides a good illustration of the ICRC’s role as a neutral intermediary in assisting the civilian population in a particularly tense context; and second, it was the only activity carried out by the ICRC in Soviet-controlled territory during this period.

Berlin and Eastern Germany

Heavily bombed during the war, Berlin suffered many casualties (around 52,000 in total) and major destruction. A further 100,000 civilians were killed in the final battle launched by the Soviet army on 16 April 1945. At the end of the war, there was a shortage of housing – and what remained was in a dilapidated state – of food, clothing and shoes, linen and medicines. The population was in weakened health, mortality rates were high, especially among infants and the elderly. Poverty and malnutrition contributed to the spread of tuberculosis.

From the start of his assignment in Germany, the ICRC special delegate painted an alarming picture of the former German capital. Its situation was exacerbated by the total lack of stocks and the fact that the land to the east had been ravaged by the war and two-thirds of it had become unfit for farming.

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The German refugees from the former eastern territories were the worst off. Six million of them were in the sector between the Oder and the Elbe. This is how Lindt described a refugee camp in eastern Germany:

There were 140 people in this camp, all expellees, who had been living there for two or three months. They did not want to move on because they had relatives in the hospital. Four women and 12 children were sitting in one room. Three of the children were covered with scabies and abscesses, while two others, although healthy, were in bed. They could not get up because they had no clothes to wear. The three mothers were too listless to go to the relief distributions in town. Yet all the children had swollen bellies from malnutrition. There was no milk to be found.

The other hut consisted of one large room. A 15-year-old girl, who had been dead for two days, was lying in a bed. They could not bury her as they had no coffin. Her brothers and sisters, completely malnourished, were playing around her. (...) The old grandfather was slumped in a corner, slowly dying. Here, too, there was no way for them to get milk, medicines or medical care.29

Thousands of refugees poured into Berlin each day: “3,000 to 5,000 refugees are arriving daily. They come from Poland. It is impossible to feed them all. The children are suffering most. (...) In the refugee camps, the worst type of [food] card, known as the hunger card,

29 Author’s translation from the original German. Minutes of the meeting held on 13 December 1945 between representatives of the ICRC, the Joint Relief Commission and other relief organizations – ICRC Archives, B G 3/39c.
5. CIVILIAN POPULATIONS


is distributed. Even housewives with ten children are given this hunger card because, in the Russians’ view, they do not work. The daily rations amount to 300 grams of bread, 300 to 400 grams of potatoes, 7 grams of fat, and 30 grams of gruel (which corresponds to two slices of bread in the morning, 3/4 litre of soup at midday and two slices of bread in the evening). Children also receive the same milk ration as Berlin children.”

Once sick people and unaccompanied children had been separated out, most of the refugees – that is, those with no relatives in the western zones – were sent to Mecklenburg. But this province, in the Soviet occupation zone, soon became saturated, and the authorities had to set up reception camps and children’s homes in Berlin.

Both in the Soviet zone and in Berlin, the refugees were the main concern.  

**Authorizations**

On 3 December 1945, the Allied *Kommandatura* in Berlin, in which the four occupying powers were represented, accepted the ICRC’s proposal, submitted one month earlier by its special delegate, to provide relief for sick people and children in the city. This offer consisted of supplying medicines and material to the hospitals and clothing and food for the children. The authorization received from the *Kommandatura* stipulated that all the goods should be sent to the public health department of the *Magistrat* (Berlin city government) or the *Oberbürgermeister* (city mayor) for distribution to hospitals and children’s institutions in all sectors of Berlin. Red Cross representatives would be permitted to attend the distributions.

On 6 December 1945, the Coordinating Committee of the Allied Control Council approved the *Kommandatura*’s decision. It also decided that authorizations for relief organizations would depend, for Greater Berlin, on the *Kommandatura*, and for the occupation zones, on the military governor in each zone.  

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32 Minutes of the meeting held on 13 December 1945 between representatives of the ICRC, the Joint Relief Commission and other relief organizations, cited above. Notes of 18 March and 15 May 1946 from C. Mariotti to the ICRC. Minutes of the meeting held on 24 April 1946 between A. Lindt and the Joint Relief Commission – ICRC Archives, B SG 7/13.
33 Greater Berlin was established in 1920 when seven districts, 59 rural communes and 27 estates were merged. This resulted in 20 districts that were integral parts of the metropolis, but retained broad autonomy. After the Second World War, eight districts were assigned to the USSR, six to the US, four to Britain and two to France. While Germany was divided into four occupation zones, Greater Berlin was divided into four sectors. It formed an enclave in the Soviet occupation zone, but was not part of it. See *The new Encyclopædia Britannica, op. cit.*, Vol. 14.
When this decision was made, the ICRC had already been granted permission to carry out relief work in the British and French zones but not yet in the American and Soviet zones. For the first time, the four occupying powers officially breached the principle that no international relief action should be undertaken for the German civilian population. The significance of this decision thus went beyond the specific context of Berlin, especially as regards the American zone, as the US authorities had up to then argued that only the Allied Control Council could authorize an international relief operation in Germany. Soon after, in March 1946, the ICRC was allowed to import relief supplies into the American occupation zone.

To obtain this result, the ICRC special delegate had established relations with the Soviet authorities through various channels, since the US authorities had said they would agree to nothing without Soviet accord. Won over to the idea of an ICRC operation, the surgeon general of the Soviet military government took the initiative himself of suggesting to his three colleagues that they accept the ICRC’s offer, and the principle was approved unanimously. A meeting, chaired by the Soviet surgeon general, was then organized with the heads of the public health sections of the four occupying powers, who decided to call on the public health department of the Berlin Magistrat, which was run by a German doctor trusted by all, to distribute the ICRC relief.

During his talks with the Soviet authorities in Berlin, Lindt also seized the opportunity to propose extending the ICRC’s relief work to the Soviet occupation zone of Germany. On 8 February 1946, he was informed orally that the Soviet military government was ready to discuss this, on condition that the ICRC could contribute significantly to solving the problem of refugee children. There were about 1.2 million such children in the Soviet zone, 60,000 of whom were sick or undernourished.

In March, the ICRC was able to make a substantial offer, thanks to donations from the Swiss Relief Fund, the Irish government, the International Save the Children Union and religious organizations such as the World Council of Churches, Caritas and the Quakers. On 13 April 1946, the chief of staff of the Soviet military administration in Germany, Lieutenant General Dratvin, gave his authorization, as follows:

1. All goods from the ICRC will be consigned to the German Administration for the Transfer of German Populations in the Soviet Zone, in Berlin.

2. Goods will be allocated by a Commission set up for this purpose and working under the German Administration for the Transfer of German Populations; this Commission shall consist of representatives of the four anti-Fascist Parties [the Communist, Socialist, Christian-Socialist and Democratic-Liberal parties], assisted by representatives of the

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36 Minutes of the meeting of the Bureau held on 12 December 1945 – ICRC Archives, A PV.
37 Minutes of the meetings of the Bureau held on 7 March and 4 April 1946 – ICRC Archives, A PV.
Women’s Committee and the Free German Trade Union (FDGB). Later, representatives of other German democratic organizations will, if necessary, be admitted to the Commission.

The Commission shall be accountable for the receipt, the storage and the proper allocation of all consignments from the ICRC for the Soviet Zone; it will be responsible to the representatives of the ICRC for the use made of the goods received.

3. The ICRC, should there be any complaint of improper use of goods or foodstuffs received, will be entitled to refer to the representatives of the Soviet Military Administration; this body will direct and supervise the work of this Commission set up for the proper distribution to sick persons and children of the Red Cross relief supplies.38

According to Lindt, the opening up of the Soviet zone took longer not just because of the lack of relations between the ICRC and the USSR at the institutional level, but probably also because of the absence of diplomatic relations between the USSR and Switzerland.39 The negotiations were greatly boosted, however, by the efficiency shown by the ICRC, immediately after the December 1945 agreement concerning Berlin, in sending two block-trains with relief40 in the space of two months.41

Working procedures and the impact of political developments

Greater Berlin

The December 1945 agreements stipulated that the relief should be handed over simultaneously in the four sectors of Greater Berlin. The quantities should correspond to the size of the population, that is 36% for the Soviet sector, 30% for the American sector, 20% for the British sector and 14% for the French sector.

Although the distributions were to be effected via the Magistrat, the ICRC delegation helped plan the operation in detail with the relevant departments (public health,
social affairs, education, etc.) in the different sectors and with the German charitable associations involved. Once the plans had been approved, at a meeting held under the auspices of the public health department of the Berlin *Magistrat*, the ICRC delivered the supplies to the department’s warehouses, where each district could come to pick up its share. The delegation carried out monitoring at different stages in the distributions and concluded that everything was running smoothly.\(^{42}\)

In these early days of the Cold War, the ICRC was determined to maintain a presence in Berlin, the only place where it was allowed to work in Soviet-controlled territory and where its role as a neutral intermediary was still highly relevant. However, in early 1948, it feared its relief work would be jeopardized by a drop in donations, as one of its major donors, the Swiss Relief Fund, had decided to end its support by 30 June. The ICRC dispatched its director-delegate in charge of relief, Georges Dunand, to Berlin, mainly to assess remaining needs. Until then it had sufficed for the ICRC to let the donations flow in, but from that point on it sought to elicit them through targeted appeals. These met with a positive response, despite the blockade of Berlin’s Western sectors, which had been decreed in the meantime by the Soviet authorities.\(^{43}\)

The Berlin blockade, which lasted from 23 June 1948 to 12 May 1949, and the efforts of the Western occupying powers to overcome it, meant the ICRC delegation had to take new measures to ensure that the block-trains could cross the different occupation zones of Germany. On several occasions, in order to avoid delays that would have led to an interruption in relief distributions, the trains had to make a detour through Austria and Czechoslovakia before reaching Berlin via the Soviet occupation zone, instead of travelling directly from Switzerland through Germany to Berlin.\(^{44}\)

As a result of the blockade, the city of Berlin became divided, and the Soviet authorities withdrew from the Allied *Kommandatura*, declaring that it no longer existed. In late November 1948, a popular assembly called by the German Communist Party in the Soviet sector dismissed the Berlin *Magistrat* and appointed a new one, which the Soviet military authorities recognized soon after. As the December 1945 agreement between the four occupying powers and the ICRC established that all relief must be distributed through the *Magistrat*, this new situation put the delegation in a difficult position: it now had to deal with two *Magistrats*, recognized by different occupying powers.

After negotiations with both *Magistrats*, in which the ICRC stressed its role as a neutral intermediary, the following arrangement was approved by the two parties: in

\(^{42}\) Note of 13 January 1948 from E. Meyer to the ICRC. Report by Dr Boehringer on the relief operation in Berlin, dated 15/18 August 1948 and annexed to the note of 14 October 1948 from the ICRC to its delegation in Berlin. 1948 annual report by A. Gaille, annexed to his note of 9 January 1950 – ICRC Archives, B SG 7/13.

\(^{43}\) Minutes of the meetings of the Bureau held on 17 March, 28 April and 19 May 1948 – ICRC Archives, A PV.

\(^{44}\) Minutes of the plenary session of the ICRC held on 18 November 1948 – ICRC Archives, A PV. Notes to the ICRC of 31 December 1948 from E. Meyer, of 18 February 1949 from R. Eckert and of 4 April 1949 from C. de Jenner – ICRC Archives, B SG 7/13.
order to avoid all political questions arising from the status of the two Magistrats – as each one claimed to have sole jurisdiction over the entire city – the ICRC would deal directly with the administrations of the 20 districts, irrespective of which authority they took their orders from. Informed unofficially of this new procedure, the four occupying powers gave their agreement. The ICRC opened new warehouses on both sides of the city, which it supplied from its central warehouse.

Thus, even though the break-up of the Berlin municipal authorities invalidated the agreement of December 1945, respect for the spirit of the agreement meant that the ICRC could continue to carry out simultaneous relief operations on both sides and according to the size of the population. Thus, between 14 December 1948 and 15 March 1949, meals were provided to 100,000 elderly people across the entire city.

To do this, the ICRC transferred 300 tonnes of food from the Soviet to the Western sector, at a time when no other organization would have been in a position to do so.45

Pushed by the political developments, the ICRC delegation, which was situated in the city’s Western sector, endeavoured also to open an office on the Soviet side, but without success. While the Soviet authorities had at first seemed receptive to the idea, when they still thought they could subjugate the Western sectors through the blockade, they then insisted once more that Greater Berlin formed a united whole and that such a step was therefore superfluous.46

The ICRC president, Paul Ruegger, travelled to Berlin in January 1949, where he held high-level talks with the military authorities in the three Western sectors but not in the Soviet part. He returned convinced that the ICRC’s relief operations in both the Western and Soviet sectors were vital. However, whereas in 1946 the ICRC had hoped to use its relief work on the Soviet side to broaden its dialogue with the authorities to other fields of activity, such as protection and the Central Prisoners of War Agency, it no longer entertained any illusions in this respect. In this city – as noted by an ICRC member travelling with the president – relations were confined to the practical level of relief distributions in Germany, and it seemed the ICRC would have to content itself with that!47

**Eastern Germany**

As regards the distribution procedures in the Soviet occupation zone of Germany, a Commission for the Distribution of Foreign Donations in the Soviet Zone was set up on 18 May 1946. In addition to the organizations named in the communication of 13 April 1946 from Lieutenant General Dratvin, it included representatives of the different authorities involved (dealing with public health, population transfers, labour and social affairs, and education), as well as the central committee of People’s


47 Minutes of the meeting of the Bureau held on 13 January 1949 – ICRC Archives, A PV.
Solidarity (Volkssolidarität). This organization, made up of members of the different parties and German professional and religious associations of all persuasions, such as Caritas and the Evangelical Welfare Society, was set up in the Soviet zone to help the neediest, regardless of their political, religious or racial affiliation.48

The Distribution Commission, in which the ICRC delegates had an advisory capacity, established the general outline for the distributions, including which geographical areas and categories of people were to be assisted. The goods were delivered to the delegation’s warehouses in Berlin and then forwarded to the German Administration for the Transfer of German Populations, which was responsible for transporting them to the different provinces in accordance with the distribution plan. In the provinces, local branches of People’s Solidarity – at the level of the Länder, districts and communities – undertook the practical work of distribution. In addition to the reports provided, a system of receipts issued at the different stages ensured that the goods could be traced. Moreover, although not expressly stated in the authorization of 13 April 1946, ICRC delegates were allowed to carry out ad hoc visits to the Soviet occupation zone to check that the distributions were running smoothly.49

The main difficulty facing the Distribution Commission in the early days was the earmarking of donations. It had been decided that all institutions carrying out humanitarian work – children’s and old people’s homes, hospitals, etc. – should benefit from the distributions, regardless of whether they were publicly or privately run. However, the Soviet military administration came to the conclusion that the Distribution Commission was paying too much heed to donors’ wishes and not insisting strictly enough on the principle of allocation according to need. Negotiations took place between the military authorities, the Distribution Commission, the German Administration for the Transfer of German Populations and the ICRC delegation. As it was held that the Distribution Commission was accountable both to the donors and the public authorities, it was decided that donations should be sent to the institutions specified by the donors, unless these were receiving too much aid in relation to the number of people in their care. Moreover, establishments aided by private donations would only have a limited share of the general allocations. However, the ICRC and the military authorities both recommended that all consignments should be left to the Distribution Commission’s discretion to allocate as it saw fit. Sometimes, though, the donors would not agree to their gifts being used for a common purpose, in which case the ICRC delegation in Berlin was called upon to mediate.50

49 Note of 18 October 1946 from A. Lindt to the ICRC and the annex to the above-cited note of 13 January 1948 by E. Meyer – ICRC Archives, B SG 7/13.
On the whole, the relief operation ran satisfactorily. ICRC delegates easily obtained permission to travel regularly to the Soviet occupation zone. However, 1948 and the Berlin blockade marked a turning point in this regard. Thus, whereas four trips to the Soviet zone took place in 1946 and 11 in 1947, only three took place in 1948 and two in 1949.\(^{51}\)

When the operation began in 1946, the ICRC had stressed its intention to assist German refugees above all. However, it soon extended its aid to other categories, such as sick people and children. With time, though, it noticed that the relief from abroad was increasingly being given to members of the working class. By 1949, the ICRC delegation could not prevent People’s Solidarity from considering that the foreign donations should be used to help achieve the objectives of the first two-year plan under implementation in the Soviet zone. Also, increasingly, the authorities were trying to divert the population’s attention away from the fact that they were receiving external aid.\(^{52}\)

In the second half of 1950, following the establishment of the government of the German Democratic Republic (October 1949), the Distribution Commission was dissolved. The Ministry of Foreign Trade took over responsibility for the distribution of relief, which was integrated into the country’s economic planning. People’s Solidarity distanced itself from the ICRC and stopped carrying out distributions. Depending on the nature of the relief, it was entrusted to the provincial and district committees of disabled persons, associations helping the blind, chief medical officers of hospitals, etc.\(^{53}\)

In the meantime, in May 1950, the ICRC dispatched one of its members, Rodolfo Olgiati, to Berlin, to establish contact with the authorities of the German Democratic Republic and to assess the general situation. Following this trip, and in line with the authorities’ wishes, the ICRC decided to limit its activities – for which it was moreover receiving fewer contributions – to medical aid for children and tuberculosis patients in particular.\(^{54}\)

Apart from ad hoc deliveries of medicines, the ICRC ended its work in Berlin and the German Democratic Republic in 1951.\(^{55}\)

Some statistics and examples of operations

After sending a first consignment for hospitals in Greater Berlin in November 1945, the Joint Relief Commission delivered more than 30 tonnes of medicines to Berlin in the first half of 1946.

\(^{51}\) Note of 14 February 1950 from C. de Jenner to the ICRC – ICRC Archives, B SG 7/13.

\(^{52}\) Note of 14 December 1949 from R. Eckert to the ICRC – ICRC Archives, B SG 7/13.

\(^{53}\) Notes of 22 August and 8 November 1950 from R. Eckert to the ICRC – ICRC Archives, B SG 7/13.

\(^{54}\) Minutes of the meetings of the Presidential Council held on 4 and 19 May 1950 – ICRC Archives, A PV. Note of 10 July 1950 from the ICRC to its delegation in Berlin and note of 11 July 1950 from R. Eckert to the ICRC – ICRC Archives, B SG 7/13.

As soon as rail transport could be used, from January 1946, the Joint Relief Commission organized block-trains carrying mainly food supplies. A total of 13 such trains travelled from Switzerland to Berlin in 1946, transporting 2,008 tonnes of various goods.  

From January 1947 to December 1948, the International Centre for Relief to Civilian Populations sent 32 block-trains (454 wagons), with 4,506 tonnes of relief supplies worth nine million Swiss francs, for the four sectors of Berlin and the Soviet occupation zone of Germany.  

From 1946 to 1950, more than 3,600 tonnes of relief were distributed in Berlin, namely 2,400 tonnes in the three Western sectors and 1,200 tonnes in the Soviet sector. Over the same period, 5,556 tonnes were distributed in the Soviet zone, helping more than 2.8 million people.  

In 1951, the year the ICRC operation ended, relief supplies worth 400,000 Swiss francs were distributed in Berlin and in the German Democratic Republic.  

In addition to food and medicines, the relief consisted essentially of clothing, shoes, fabric, blankets, soap and cooking utensils to address the needs identified by the delegates. One delegate reported that, during the winter of 1945-1946, in some districts of Berlin, “up to 74% of children did not own a pair of shoes that could be used in bad weather. Across the whole city, the average was 55%. On rainy and snowy days, between 10 and 20% of children missed school because of this. (…) We see children in schools and especially in the refugee camps who are wearing shoes four to five sizes too big for them, and others who, instead of shoes, have a kind of wooden or cardboard sole tied on with string under their feet.” This aid was intended for the most vulnerable groups, the sick, expectant and nursing mothers, children, elderly people, repatriated prisoners of war and refugees from the East. Besides hospitals, the supplies were distributed mainly to institutions regularly providing meals to the above groups, such as children’s homes, school canteens, hospices for elderly people and reception camps for repatriated prisoners of war and German refugees.

Some activities were organized several years in a row, such as the Ferienspiele, or holiday games, during which tens of thousands of children from the four sectors of Berlin received one or two hot meals a day for a month during the summer holidays. As the children of Berlin were not able to go on holiday outside the city, the schools organized games in parks and sports fields, where the children were supervised by

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their teachers and where they were fed. In another scheme carried out each winter, some 100,000 elderly people in the four sectors of Berlin were given hot meals over a three-month period.

The ICRC’s work in Berlin and eastern Germany was approved of and appreciated by the four occupying powers and all the German authorities, since, as they themselves said, it played a key role in the reconstruction of the city and the reduction of infant mortality, especially at the beginning. Through its special delegate, Auguste Lindt, the ICRC had done pioneering work in initiating negotiations regarding aid for the German civilian population. At first the only organization authorized to bring in relief from abroad, the ICRC paved the way for other aid agencies, which were then able to operate independently in the Western sectors of Berlin. In this way it opened up other sources of aid to the city. Moreover, throughout this whole period, the ICRC’s reports and appeals kept the different countries of Europe and overseas – potential donors of aid – informed about the situation in Berlin and eastern Germany.

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63 Note of 6 December 1948 from E. Meyer to the ICRC – ICRC Archives, B SG 7/13.
64 Note of 2 October 1946 from A. Lindt to the ICRC and note of 21 March 1951 from M. Borsinger on the relief distributed in Berlin – ICRC Archives, B SG 7/13.
The transfer of the Germans from the East and German-speaking ethnic minorities

According to different estimates, at the end of the Second World War between 12 and 15 million people of German nationality, stock or language poured into Germany (within its new borders of 1945, defined to the east by the Oder-Neisse line). Most of these had been forcibly transferred or prevented from returning to their homes, which they had abandoned under the pressure of events. Thus, from 1944, millions of German nationals from the eastern parts of the Reich fled westwards, ahead of the advancing Soviet armed forces. Then, at the end of the war, German minorities in Poland, Czechoslovakia and Hungary were driven out by the local population and authorities.

Article 13 of the Potsdam Agreement (17 July–2 August 1945) endorsed the transfer to Germany of the German minorities still remaining in the above countries, who were to be distributed evenly among the three main occupation zones – American, British and Soviet – according to plans to be drawn up by all the authorities concerned. Thereafter, although not mentioned in the Potsdam Agreement, Romania, Yugoslavia and Bulgaria went on to decree the expulsion of their own German minorities.

These measures concerned not only people who had cooperated with the Nazi regime but entire populations, which fell into two main groups: (1) German citizens – Germans from the East or Reichsdeutsche – who were living in the eastern parts of the Reich (East Prussia, Silesia and Pomerania) that were given to the USSR and Poland in 1945, and (2) German-speaking ethnic minorities, known as Volksdeutsche, who were nationals of different countries of Eastern Europe and the Balkans, where they had settled, in some cases, centuries before. In addition to these two main groups were: the hundreds of thousands of Volksdeutsche who had been transferred to Germany and Austria – including the eastern parts of the Reich and the newly conquered territories in the East – following the agreements concluded by Hitler with several countries just before and in the early years of the war; and tens of thousands of German civilians, in particular women, children, the elderly and the sick, who were evacuated from bombed areas of Germany during the war to occupied countries or annexed territories.

An estimated two to three million refugees perished during this exodus, mainly in the period before the implementation of the Potsdam Agreement. Those who survived suffered the trauma of being uprooted, losing their property and livelihoods and, in many cases, being separated from their families.

65 In the terminology of Nazi Germany, Volksdeutsche were all people living outside Germany and Austria who could be considered as part of the “German race”. The term was nonetheless frequently used after the war.

66 This introduction is based on information from the following works and articles: Report of the International Committee of the Red Cross on its activities during the Second World War (September 1, 1939–June 30, 1947), Vol. I, op. cit., p. 673; ICRC Annual Report 1952, p. 34, footnote; Georges Beckh, “Les minorités de langue allemande, dites ‘Volksdeutsche’, et les Allemands de l’Est”, in
Seeing as these people were victims of the immediate consequences of the war, that they lacked any protection because of the disappearance of the German government, that the German Red Cross had been dissolved and that they fell outside the mandates of UNRRA and the IRO, the ICRC strove to assist them in as far as its means permitted.\footnote{On the ICRC’s representations to the IRO regarding certain categories of Volksdeutsche who were not of German origin, see ICRC Report on General Activities (July 1, 1947–December 31, 1948), op. cit., pp. 64–65, ICRC Annual Report 1949, p. 59, and H.G. Beckh, “The reuniting of families in Europe during and after the Second World War”, Part 2, IRRC, No. 216, May–June 1980, pp. 122–123.}

Thus, in Germany itself, refugees and expellees were the primary beneficiaries of the ICRC’s relief work for civilians. As these activities have already been dealt with above, we shall not return to them here.

The ICRC was, however, also concerned about the fate of German minorities who were still in their former homelands and threatened with or awaiting expulsion. Below, we shall look at the case of Czechoslovakia, where the ICRC conducted its largest operation for this category of victim, before turning briefly to Poland and the other countries.\footnote{On this subject, see also the post-graduate dissertation by Anne-Laure Sans, “aussi humainement que possible” – Le Comité international de la Croix-Rouge et l’expulsion des minorités allemandes de l’Europe de l’Est, 1945–1950 (Pologne – Tchécoslovaquie), Geneva University, Graduate Institute of International and Development Studies, Geneva, October 2003.}

Lastly, we shall summarize the ICRC’s efforts to reunite dispersed families, which continued up until the 1970s.

\textbf{German minorities in Czechoslovakia}

The ICRC’s head of delegation in Czechoslovakia, Georges Dunand, raised the question of the German minorities at the end of May 1945, first in Prague with the president of the Czechoslovak Republic, Edvard Beneš, and his interior minister, and then in Bratislava with the Slovak interior commissioner. They confirmed the Czechoslovak government’s intention to transfer these minorities to Germany but assured him that this would be done in as humane a manner as possible. A government committee had been instructed to draw up the necessary plans and regulations. These would be shared with the ICRC delegation, so that it could provide relief, in particular to the camps housing these people before their departure.\footnote{Note of 25 May 1945 from G. Dunand to the ICRC – ICRC Archives, B G 3/70/1.}

ICRC headquarters in Geneva remained reticent, however, as it did not want to appear to be supporting forced transfers. It preferred that its delegation in Czechoslovakia act on its own initiative to start with. The delegation was thus authorized to visit the camps, suggest any necessary improvements to the authorities and facilitate relief efforts. But it was to ensure that its actions could in no way be interpreted – by the authorities in charge, the people awaiting transfer or public opinion – as giving an ICRC stamp of approval to the Czechoslovak government’s policy or its implementation.\footnote{Minutes of the meeting of the Bureau held on 13 June 1945 – ICRC Archives, A PV. Letter of 3 July 1945 from M. Huber to G. Dunand – ICRC Archives, B G 3/70/I.}

The first ICRC visit was to Patronka camp in Bratislava on 2 June 1945.\footnote{Note of 7 June 1945 by G. Dunand and its annexes, including the report on the visit of 2 June 1945 to Patronka camp for civilian internees in Bratislava. Note of 11 June 1945 by G. Dunand and its annex: summary of the presentation by G. Dunand before the Delegations Commission on 11 June 1945 – ICRC Archives, B G 3/70/I.} Subsequent visits were also to camps in the Slovak part of the country. The delegate noted that most of the German minorities had already been driven from their homes. Stripped of their possessions, they were waiting in camps in wretched conditions. After the second visit to Patronka camp, where the situation had deteriorated greatly because of overcrowding, he concluded his report as follows:

It is difficult to convey the deep distress that one feels on visiting this camp. Many of the people are dirty, the women dishevelled, the children frightened. They do not appear to be suffering directly from hunger as in Petrzalka camp (…), but they live like cattle and complain of vermin and the brutality of the deputy-head. The women are also not spared military visits from the outside.

The very bad impression made on the visitors was also due to the presence, in the large courtyard, of 900 men, women, children and elderly people who had been expelled from the villages around Bratislava and who, after three weeks at Patronka camp, were waiting to walk the 15 kilometres to Petrzalka camp, dragging some carts piled with belongings behind them. As the bridge was not open, they had massed in the yard for the day.

The delegates’ arrival caused quite a stir and they were assailed with questions and complaints, which did not all seem unfounded.\footnote{Report on the visit of 24 July 1945 to Patronka camp for civilian internees, annexed to the note of 25 July 1945 from G. Dunand to the ICRC – ICRC Archives, B G 97. Regarding Petrzalka camp, see the note of 7 November 1945 from Pierre Mock to the ICRC, in which he reported that in November 1945 the daily food ration had fallen to around 500 calories – ICRC Archives, B G 97.}

The delegation immediately made oral and written representations to the Slovak and Czechoslovak authorities, in particular to President Beneš, highlighting the main problems – inadequate medical care and diet, harsh treatment – and urging them to address them.\footnote{Note of 12 August 1945 from the delegate Walter Menzel to the ICRC and its annexes, in particular the letter of 12 August 1945 sent by him to President Beneš – ICRC Archives, B G 97.}
11. Czechoslovakia, 1946. Lining up for a meal at the Petrzalka internment camp for German minorities. © ICRC (ICRC/CID, V P HIST-01035-04)

© ICRC (ICRC/CID, V P HIST-03360-33)
At this juncture, the Potsdam Agreement was signed and, on 2 August 1945, the President of the Czechoslovak Republic issued a decree depriving members of the German minority (2.5 million people) and the Hungarian minority (500,000 people) of their citizenship. After that, since Czechoslovakia was still at war with Germany, the ICRC considered that the members of German minorities held as nationals of an enemy power in camps could be assimilated to civilian internees. It decided to increase the number of delegates in Czechoslovakia from two to four in order to provide all possible assistance to these people.

For indeed, the ICRC was assailed by appeals to help German civilians expelled from Czechoslovakia or interned in camps. These petitions were accompanied by testimonies of the inhumane conditions in which the expulsions took place – people were forced to leave their homes immediately and without any belongings – and, in some cases, summary executions, arrests followed by internment or forced labour, and other forms of violence. This brutality, above all in the border regions (Sudetenland), was, according to the delegates, part and parcel of the atmosphere of hatred against Germans after years of occupation. It arose from the wretched situation of the Czechoslovak population, which took over the homes and property of the Germans and for whom the transfers could not start soon enough.

This situation – and the fact that no camps had yet been visited in Bohemia and Moravia – prompted the delegation to ask if it could tour the camps in the company of an official from the Czechoslovak Interior Ministry and a doctor from the Ministry of Health. In light of the precarious economic situation in the country, which was in the midst of a process of complete reorganization, and also the sensitivity of the minorities issue in the eyes of public opinion, Walter Menzel, who had replaced Georges Dunand as the head of the delegation, believed that a report by a commission in which the authorities were represented would carry greater weight than one produced by an external observer alone. The delegates had moreover been criticized more than once for the ICRC’s concern for the Germans and their perceived lack of interest in Czech victims during the war.

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74 See p. 189 above.
75 The ICRC did not undertake any special action on behalf of members of the Hungarian minority, as their country of origin had a government and a National Red Cross Society that could look after their interests. Moreover, diplomatic relations existed between Czechoslovakia and Hungary.
76 In the meantime, the ICRC had sent out a second delegate in the person of Walter Menzel.
77 Minutes of the meeting of the Bureau held on 8 August 1945 – ICRC Archives, A PV. Note of 7 August 1945 from F. Siordet to the Bureau and note of 8 August 1945 from W. Menzel to the ICRC and its annex, extracts from the decree of 2 August 1945 concerning German and Hungarian minorities – ICRC Archives, B G 3/70/I.
78 Minutes of the meeting of the Bureau held on 29 August 1945 – ICRC Archives, A PV. Note of 31 August 1945 by G. Dunand and memorandum of 21 March 1946 from P. Mock to the ICRC – ICRC Archives, B G 3/70/I and G 3/70/III. Many testimonies can be found in the record series ICRC Archives, B G 97.
79 W. Menzel was himself replaced by Dr O. Lehner in August 1946.
80 Note of 4 September 1945 by W. Menzel and note of 21 May 1946 from P. Mock to the ICRC – ICRC Archives, B G 3/70/I and G 3/70/III. On the general situation, see also the note
After some delay, the Czechoslovak government accepted the delegation’s proposal and the increase in its staff. Visits began in the Prague area on 16 October 1945 and continued in Karlovy Vary and Marianske Lazne. In the Slovak part, the ICRC had standing permission to visit all the camps. This was not the case in Bohemia and Moravia, where visits were authorized to specific camps on specific dates only. Complicating matters further, the delegation had no official list of the camps there. It learned of the existence of some of them through the individual cases contained in the hundreds of complaints and requests it received daily. The procedures were subsequently relaxed, but it was not until January 1947 that the delegation obtained a list of the camps run by the Interior Ministry in Bohemia and Moravia-Silesia.

The ICRC delegation realized that a relief operation for the German minorities would only be acceptable if it also provided aid to the Czechoslovak people. It thus arranged that 10 per cent of the aid sent to Czechoslovakia by the Joint Relief Commission should be given to the German minorities, and took on the task of overseeing its distribution. The first consignments reached Prague in mid-December 1945. The delegation strove to ensure that people interned in camps (pregnant women, mothers of infants, children and the sick) received their share, which was not always easy. Further distributions were organized for those worst off; however, these were just a drop in the ocean compared with the real needs.

As regards the transfer of German minorities to the American occupation zone in Germany, official operations began in late January 1946, implemented according to the plans drawn up following the Potsdam Agreement. However, transfers had started much earlier, sometimes taking place in terrible conditions. On 17 December 1945, the ICRC delegate in Bavaria had witnessed the arrival of a train carrying 650 people at temperatures of 16°C below zero. Of

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82 Notes of 21 May 1946 from P. Mock and 3 June 1946 from W. Menzel to the ICRC. Notes of 30 January and 16 February 1947 from Dr O. Lehner to the ICRC – ICRC Archives B G 3/70/III and G 3/70/IV.


84 Transfer operations to the Soviet zone of Germany began in June 1946.
these, 94 people, including 22 children, had died on the way from weakness, hunger and cold. 86

According to the Czechoslovak press, the transfer operations organized from January 1946 were carried out in a humane manner, with each person being allowed to take 50 kilos of luggage and a fixed sum of money with them. According to the ICRC delegate in Bavaria, who was present when one of the trains arrived, the transferees complained that all their belongings had been taken from them at the last minute. The ICRC delegation in Prague raised the issue with the Czechoslovak authorities and instructed one of its delegates to attend the departure of some of the trains, while the ICRC asked its delegation in Bavaria to carry out checks on their arrival. 87

On 14 March 1946, the ICRC interim president, Max Huber, sent a memorandum to the president of Czechoslovakia drawing his attention to the following: that the internment conditions of minorities were still far from satisfactory; that the ICRC had not been informed of the existence of a large number of camps; that, according to information received by its delegates, some members of minorities had been imprisoned without charge or trial; and that sick people were sometimes subjected to ill-treatment in hospitals. President Huber therefore urged the Czechoslovak government to issue precise instructions to increase food rations for civilian internees, improve their living conditions and provide medical care and medicines. As for the evacuation of the German minority from the Sudetenland, after stressing that it refrained from taking a stand on the policy itself, the ICRC recommended first evacuating those people who were already in camps, as the internment conditions were inadequate; putting an end to provisional internment; reuniting family members before their evacuation; taking all children, not just orphans, out of the camps, where possible with their parents; and, lastly, allowing the evacuees to take some personal belongings and the necessary provisions for the trip. 88

This memorandum, together with the reports on camp visits, was handed personally by the ICRC head of delegation to President Beneš and his foreign minister, Jan Masaryk. 89

Official transfers to the American occupation zone in Germany – and also, it seems, to the Soviet zone – were interrupted in late November 1946, as the US authorities no longer agreed to large-scale operations because of the shortage of accommodation.

87 Note of 28 January 1946 from W. Menzel to the ICRC. Minutes of a working meeting held on 21 February 1946 with W. Menzel and note of 4 March 1946 from W. Menzel to the ICRC – ICRC Archives, B G 3/70/III. Notes of 2 and 27 May 1946 from P. Mock to the ICRC. Note of 21 August 1946 from H.G. Beckh to R. Voegeli – ICRC Archives, B G 97.
89 Note No. 588, undated (probably of 15 April 1946) and note of 16 April 1946 from W. Menzel to the ICRC – ICRC Archives, B G 3/70/III.
Instead, transfers of a few dozen people a week (against 2,000 previously) were organized on an individual basis. Those travelling had to fulfil a number of criteria, namely to have relatives in the American occupation zone, the possibility of accommodation and a means of livelihood. This therefore excluded the sick, the elderly and those with nowhere to stay. The ICRC delegation in Prague, for its part, strove to facilitate the reuniting of families by informing people with relatives in Germany about the steps to take in order to obtain entry permits to the occupation zone and exit permits from Czechoslovakia and by helping in the practical organization of their journey when necessary.\footnote{Note of 18 December 1945 by J. Duchosal – ICRC Archives, B G 97.}

The scaled-down transfers had all but petered out by November 1947. This situation triggered new expulsions from their homes of members of German minorities.\footnote{Notes of 14 July and 22 November 1947 and of 4, 17 and 21 May and 27 July 1948 from Dr C. Reichard to the ICRC. Summary of a discussion held on 13 October 1948 between H.G. Beckh and Dr Reichard – ICRC Archives, B G 97.}

Meanwhile, the Czechoslovak authorities put sick internees, the elderly and children in hospital-camps and homes, while the able-bodied were generally transferred to work camps or sent to live with their employers. ICRC delegates continued to visit these different places – except for camps holding convicted offenders, to which they were denied access. They noted that the authorities had worked hard to implement their suggestions, and living conditions had improved significantly.\footnote{Letter of 6 August 1947 from Dr O. Lehner to the Czechoslovak interior minister and summary of a discussion held on 13 October 1948 between H.G. Beckh and Dr C. Reichard – ICRC Archives, B G 97.}

During one camp visit, however, an ICRC delegate noted: “We have learned that the expulsions are carried out in very harsh conditions. The police come at night and give people 24 hours to leave. We have not been able to determine whether these cases are exceptions or the norm. (...) We shall contact the relevant authorities regarding the evacuations. But (...) we must try and get the American authorities to speed up the transfer process and make them understand the conditions of slavery in which the Germans are living while awaiting transfer, deprived of their liberty and forced to follow whatever employer the camp hands them over to.”\footnote{Note of 4 May 1948 by Dr C. Reichard, cited above.}

Some time earlier, in March 1948, the Prague authorities had approached the head of delegation to ask whether the ICRC could use its good offices to persuade the American authorities in Berlin to ease the procedures for reuniting separated families. According to the Czechoslovak authorities, about 10,000 people were awaiting transfer for this purpose. They also asked the ICRC to request permission for entry to the American zone of an additional 100,000 people, out of the 200,000 to 300,000 members of minorities still remaining in Czechoslovakia.\footnote{Note of 20 March 1948 from Dr O. Lehner to the ICRC – ICRC Archives, B G 97.} The ICRC instructed its delegation in Berlin to approach the US authorities regarding the reuniting of separated families. As for the transfer of the 100,000 extra people,
the ICRC did not want to take any steps that could trigger the expulsion of people who may not have wanted to leave Czechoslovakia. Nonetheless, it asked its delegation to also raise the issue of people who wanted to go to Germany but had no family there.95

In January 1949 the British authorities asked the ICRC delegation in Prague to sound out the Czechoslovak authorities regarding some 45,000 Germans and members of German minorities who were serving prison sentences in Czechoslovakia and would be released, in accordance with the Czechoslovak Penal Code, only if one of the occupation zones of Germany agreed to take them in.96 The Czechoslovak authorities informed the delegation of their intention to transfer all Volksdeutsche sentenced to up to 20 years in prison or to forced labour, as well as the elderly, the sick and all other people who fulfilled the criteria for family reunification.97

From that point on, the ICRC sought to persuade the Allied authorities to abandon the system of individual permits and resume group convoys. To this end, it started talks with the relevant authorities and National Societies in Prague and Warsaw98 and in Germany, where it involved both the German authorities and the Allied occupying powers. The German Red Cross, in agreement with the ICRC, drew up lists of three types of case: A cases, that is people with relatives in one of the Western occupation zones whose accommodation was guaranteed; B cases, that is those with relatives who could not provide accommodation for them, and C cases, people with no relatives in these zones.99

In December 1949, representatives of the Allied and German authorities, the German Red Cross and the ICRC met in Bonn. This led to the conclusion of an agreement on 14 December regarding the admission to the Federal Republic of Germany of 25,000 people from Poland and 20,000 from Czechoslovakia, who were to be taken charge of by their relatives.100

However, several difficulties still had to be overcome, as the Allied and German authorities had agreed to issue group permits based on lists of people classified as category A. The Czechoslovak authorities, meanwhile, would brook no distinction between categories A and B – as this would be asocial and incompatible with popular democracy – and insisted that the lists be drawn up not in Germany but in

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95 Note of 9 April 1948 from R. Gallopin to the ICRC delegation in Prague – ICRC Archives, B G 97.
98 The German minorities in Poland faced similar problems.
Czechoslovakia. The German authorities assured the ICRC that people from either of the two categories would be allowed to enter the Federal Republic of Germany. Further talks were held in Prague between the Americans and the Czechs under the auspices of the ICRC delegation. These led, on 31 January 1950, to the signing of an agreement establishing the procedure for the emigration of members of German minorities who wished to rejoin their families in West Germany, and defining the ICRC’s role in this context.\footnote{Letter of 6 January 1950 from G. Meyer-Moro to the ICRC. Letter of 13 January 1950 from Dr Lukaschek, of the Ministry for Refugees of the Federal Republic of Germany, to the ICRC delegation in Berlin. Note of 2 February 1950 from Dr C. Reichard to the ICRC and its annex – ICRC Archives, B G 97.}

Thus, in an operation which began on 17 March 1950 and ran until April 1951 – called Operation Link – nearly 44,000 people were transferred from Poland to Friedland transit camp in the British occupation zone, and more than 16,000 were transferred from Czechoslovakia to Furth im Wald camp in Bavaria, in the American occupation zone.\footnote{Summary Report on the Work of the International Committee of the Red Cross (1st July 1947–31st December 1951), \textit{op. cit.}, pp 27–28.}

Among those transferred from Czechoslovakia were a large number of released detainees, who were long awaited by their families in West Germany. The ICRC had helped forward the documents necessary for their early release and for their inclusion in the convoys.\footnote{Letter of 6 April 1950 from H.G. Beckh to the Ministry for Refugees of the Federal Republic of Germany – ICRC Archives, B G 97.}

Until the closure of the delegation in mid-1950, ICRC delegates in Czechoslovakia continued to visit the camps housing people awaiting departure, to check that customs formalities were being properly observed and to accompany some trains. The ICRC also dispatched delegates to Furth im Wald to be present when the convoys arrived.\footnote{Letter of 2 February 1950 from G. Meyer-Moro to the ICRC. Report by H.G. Beckh on his visit to Furth im Wald on 17 March 1950. Note of 27 May 1950 from Dr C. Reichard to the ICRC – ICRC Archives, B G 97.}

### Poland

The main task of the ICRC delegation in Poland, which was opened in late April 1946, was to help the tens of thousands of German prisoners of war in the country. As a result of the wartime destruction and harshness of the occupation, the situation in Poland was very tense. Although inundated with appeals, the head of delegation, François Ehrenhold, had first to win the authorities’ trust before he could raise the question of the Germans from the East and German minorities.

In early 1947, he persuaded the Polish Red Cross information bureau – with which he was already cooperating on the question of prisoners of war – to extend its activities...
to German civilians and, in particular, to act as an intermediary with the authorities regarding the requests for information about civilians received by the ICRC. At that time, according to the Polish Ministry of the Interior and Recovered Territories, some 400,000 people still remained to be transferred (around three million Germans, both Volksdeutsche and Reichsdeutsche, had already left Poland – just over one million for the British occupation zone and the rest for the Soviet zone – either by their own means or after being evacuated by the Polish government).\(^\text{105}\)

Meanwhile, having learned that convoys of evacuees had arrived in Germany in a very bad state, because of the harsh winter, the ICRC delegate managed to persuade the Polish Ministry of the Interior and Recovered Territories, in early 1947, to postpone the transfers to a milder season.\(^\text{106}\)

On 25 April 1947, the ICRC President’s Office sent a letter to the Polish authorities enquiring about the regulations applied to people being repatriated or evacuated and requesting permission to visit camps holding civilian internees and to attend the departure of some trains.\(^\text{107}\)

In response to this letter, on 12 August 1947 the ICRC delegate was allowed to visit Kalawsk marshalling yard, some 150 kilometres west of Wroclaw and close to the Soviet occupation zone of Germany, accompanied by the Polish government’s commissioner general for the repatriation of German civilians. It was to this station that the convoys from internment and transit camps in Poland were sent, and here that the trains for Germany were assembled. On 11 and 16 August, he also visited the reception points in Wroclaw and Lodz, where free civilians generally stayed for just a few days before their departure. As the delegate noted, though, these visits only gave him an incomplete picture of the situation of German civilians, as the internment camps, which were the subject of most of the complaints addressed to the ICRC, remained off-limits to him, for instance the camp in Potulice, which was holding thousands of internees.\(^\text{108}\) Subsequently, in May 1948, he was allowed to visit three homes in Trzebiatow, where elderly Germans were lodged pending their evacuation, and in July 1948, the children’s reception centre in Glubczyce, and to provide some aid.\(^\text{109}\)

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\(^{107}\) Letter of 25 April 1947 from ICRC Vice-Presidents Martin Bodmer and Ernest Gloor to Vice-Minister Wolski of the Ministry of the Interior and Recovered Territories in Warsaw – ICRC Archives, B G 97.


\(^{109}\) Notes of 13 May and 11 August 1948 from F. Ehrenhold to the ICRC – ICRC Archives, B G 3/48 o.
tion, during his visits to German prisoners of war, he discovered some civilians who were forced to work in mining camps.\(^{110}\)

The ICRC delegation sought to accelerate the transfer of children, the aged and the sick and, in cooperation with the National Societies and the authorities concerned, to reunite them with their families. It helped to prepare suitable transport for this purpose, for instance by putting hospital-train carriages at the disposal of the Polish authorities, with support from the delegation in Berlin, the Swiss Relief Fund and other aid organizations. In response to the hundreds of requests received, it also informed families of what steps to take in order to be reunited in Germany and helped forward the necessary documents.\(^{111}\)

However, like the American occupation authorities in Germany with respect to Czechoslovakia, the British occupation authorities were increasingly reluctant to accept people from Poland in their zone. They started to require individual entry permits, which greatly limited the possibilities for departure, given the delays and obstacles that resulted from this decision. The solution would be a resumption of group convoys, especially since the Polish government was willing to allow all the Germans from the East and Volksdeutsche to leave if they so wished.\(^{112}\) The ICRC raised the matter in its negotiations with all the parties concerned, which led to Operation Link. This, as we have seen above, enabled 44,000 people to leave Poland to join their families in Germany.

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In Yugoslavia, many German civilians were interned or held in custody while awaiting transfer. However, the ICRC was unable to do anything to help them,\(^ {113}\) as it was already facing many difficulties in its work for prisoners of war and had been refused permission to increase the size of its delegation.\(^ {114}\)

Lastly, ICRC delegates carried out ad hoc visits to three internment camps in Romania in January and February 1945 – although this authorization was rescinded in March 1945 – and to camps in Hungary in November 1945 and January 1946.\(^ {115}\)


\(^{114}\) See pp. 130 ff. above.

\(^{115}\) Ibid., p. 678.
Reuniting families

An estimated one million people were separated from their families as a result of the massive upheaval of German populations. The main reasons for this were: the conditions in which their displacement took place; the refusal by some people to leave with the convoys in the hope of being able to stay on in their homeland, until they realized that they could not live without their families in a totally changed environment; the fact that some prisoners of war were repatriated to the country where they had lived with their families, while their families had already left, or, vice versa, they were transferred to Germany, while their families had remained in their country of residence. Moreover, the start of the Cold War put up barriers which hampered contacts between separated family members and prompted many to seek to join their relatives on the other side. Thus, the ICRC received more and more requests from people who had stayed in the East and wished to join their families in the West, especially in West Germany and Austria. By then, however, the governments had reversed their approach, and it had become difficult to obtain exit permits from the countries where they were living.116

At the beginning of their work to help German minorities, the ICRC delegates in Prague and Warsaw had stepped in to ensure that families were not separated but instead grouped together before their departure. However, it was Operation Link, initiated by the ICRC, which really marked the beginning of family reunifications.

After the closure of the ICRC delegations in Warsaw and Prague, in late 1949 and mid-1950 respectively, the Polish and Czechoslovak Red Cross Societies established direct relations with the German Red Cross in the Federal Republic of Germany and took over from the ICRC in organizing transfers. By 1967, some 387,000 people from Poland had thus been reunited with their families in the Federal Republic of Germany.117 By the early 1970s, an estimated 30,000 to 40,000 people118 had left Czechoslovakia for West Germany and Austria.

In July 1949, the ICRC delegation in Vienna started negotiations with a view to persuading the Austrian and the occupation authorities to allow family members from the countries of Eastern and South-Eastern Europe into Austria. As regards the occupying powers, authorization from the USSR was the most important as it was chairing the Inter-Allied Commission at the time. The Soviet colonel in charge of the question gave his agreement, as did the three Western Allies.119

117 After this date, inter-governmental agreements determined such operations, which involved a further 80,000 to 100,000 people.
Another milestone in the field of family reunifications was achieved at the International Conference of the Red Cross on the refugee problem in West Germany and Austria, held in Hanover from 9 to 14 April 1951. Convened by the League, with support from the ICRC, the German Red Cross in the Federal Republic of Germany and the Austrian Red Cross, this meeting was attended by representatives of 17 National Societies, the League and the ICRC, other interested organizations, as well as representatives of the Allied authorities and German government circles. Here, the question of reuniting families was examined, not in isolation, but from the overall perspective of the assistance provided to refugees and expellees by the relevant authorities, the German Red Cross in the Federal Republic of Germany, the Austrian Red Cross and other organizations. For the first time, the principle of reuniting families was fully recognized, and all Germans and members of German-speaking ethnic minorities separated from their families were now sure to be accepted. In its Resolution No. 11, the Conference congratulated the ICRC on the results achieved in reuniting families and invited it to continue its efforts in this field; it also thanked the National Red Cross Societies which were actively contributing to this task.

In Yugoslavia, the ICRC first alerted the authorities and the Yugoslav Red Cross to the situation of unaccompanied children from German minorities and the urgent need to reunite them with their parents. In late 1950, the first convoys brought 87 children to Austria and 67 to Germany. ICRC delegates were present when the children crossed the Austro-Yugoslav border and countersigned the transfer records, while doctors selected by the ICRC examined the children in the presence of the German Red Cross in the Federal Republic of Germany and the Austrian and Yugoslav Red Cross Societies. By December 1959, some 2,400 unaccompanied children and young people, travelling in 13 convoys organized by the Yugoslav Red Cross, had joined their relatives in the Federal Republic of Germany, the German Democratic Republic, Austria and other countries. By this time, 98% of known cases had been solved.

The success of the convoys for children meant that the ICRC could extend the scheme to adults wishing to join their families, whether or not they were accompanied by children. The decisive negotiations were held in Belgrade with the Yugoslav Foreign Ministry and the diplomatic mission of the Federal Republic of Germany. These led to the signing of an agreement in 1952 which paved the way for some

120 After its reconstitution and recognition by the Bonn government in February 1951, the German Red Cross in the Federal Republic of Germany was officially recognized by the ICRC on 26 June 1952. Meanwhile, the German Red Cross in the German Democratic Republic was recognized by its government in October 1952, and by the ICRC in November 1954. As for the Austrian Red Cross, which had been absorbed by the German Red Cross after the Anschluss, it was revived as an independent society in 1946.

60,000 *Volksdeutsche* to leave Yugoslavia, on an individual basis, by 1960. They went mainly to the Federal Republic of Germany but also to other host countries, as the agreement was then applied in a similar manner for departures to countries other than the Federal Republic of Germany. By the late 1970s, between 80,000 and 90,000 people had emigrated.\textsuperscript{122}

In Romania, following a visit by an ICRC delegate to Bucharest in May 1948, the Romanian Red Cross agreed to handle, on an individual basis, any tragic cases submitted to it – that is, concerning the reunification of unaccompanied children with their parents, of spouses separated by events, of elderly people wishing to live with their children abroad – on the understanding that the final decision remained in the hands of the relevant Romanian authorities. By the end of 1949, over 100 people had thus received permission to emigrate to Germany.

The ICRC continued its efforts to solve any other cases in collaboration with the German Red Cross Society in the Federal Republic of Germany and the Austrian Red Cross. From the mid-1950s, ICRC representatives travelled regularly to Bucharest to try and speed up the process. By the end of 1957, they had forwarded 2,038 requests, while the German Red Cross in the Federal Republic of Germany had drawn up lists with a total of 8,432 names. The diplomatic mission of the German Democratic Republic was also involved, successfully arranging for people to be reunited with their families in the German Democratic Republic and the Federal Republic of Germany.

From 1955 to 1967, over 15,000 people were recorded as entering the Federal Republic of Germany from Romania. To this figure must be added the arrivals in the German Democratic Republic and Austria.\textsuperscript{123}

Herbert-Georges Beckh, who with François Ehrenhold was one of the main architects of the ICRC programme to reunite German families, estimated at about 700,000 the number of people who had thus joined their relatives by late 1969, thanks to the combined efforts of the ICRC, the National Red Cross Societies and other aid organizations, as well as the government authorities. One should also mention the important role played on the technical level by the Central Prisoners of War Agency,\textsuperscript{124} in particular its department in charge of family reunifications, and by the tracing services of the National Red Cross Societies, especially the German Red Cross in the Federal Republic of Germany.


\textsuperscript{124} On 1 July 1960 it was renamed the Central Tracing Agency, which better reflected the mandates entrusted to it by the Geneva Conventions of 1949, as a body working no longer just for military personnel but also for civilians.
Reuniting families required cooperation between the National Red Cross Societies of countries separated by the Iron Curtain. In Beckh’s view, the programme succeeded primarily thanks to the moral principles on which it was based – in particular respect for the family unit, considered as one of the fundamental human rights – and, above all, the neutral and apolitical nature of the ICRC. As he pointed out, “the National Red Cross Societies (...) have at times to take into account, even if only slightly, views which may be dominant among the people in their country. The fact that an operation owes its origin and direction to the ICRC is sufficient to place the activities of National Societies, carried out in co-operation with the ICRC, on a proper footing and to strengthen their neutrality.” Of course, things did not always run smoothly, and there were setbacks. The ICRC nevertheless persevered, often having to step in as an arbitrator, one of the main challenges being to create a positive atmosphere in spite of the past.

By the mid-1950s, reuniting families was the only activity, apart from the provision of some medical relief, that enabled the ICRC to maintain regular contacts with the countries of Eastern Europe.

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126 The Fourth Geneva Convention of 1949 relative to the Protection of Civilian Persons in Time of War devotes the following articles to the rights of the family: Art. 25 (family news), Art. 26 (reunification of dispersed families), Art. 27 (respect for family rights), Art. 50 (identification of children) and Art. 82 (grouping of members of the same family in the same place of detention).
129 Minutes of the plenary session of the ICRC held on 13 October 1955 – ICRC Archives, A PV.
PART III

The development of international humanitarian law and ICRC policies

As the promoter of the original Geneva Convention of 1864,1 which marked the beginning of modern international humanitarian law, the ICRC has always considered one of its priority areas of work to be the drafting, development and improvement of this body of law, in light of its experience in the many conflicts in which it has acted. The mechanism by which this is achieved is eloquently described by François Bugnion:2 “action taken on the ICRC’s initiative fosters the development of rules; they in turn allow the action to become systematic, while opening the way to further initiatives. Like the endless series of reflections in parallel mirrors, there is thus a continual interplay between the development of the ICRC’s practice and that of its official policy and humanitarian law.” Throughout the period from the Battle of Solferino to the First World War, the Spanish Civil War and on to the Second World War, the ICRC encouraged States to codify the humanitarian advances that, while not legally required of them in the preceding conflict, they had managed to put into practice.

At the end of the Second World War, the ICRC took up this task anew, seeking to extend the protection provided under the Geneva Conventions to all victims of armed conflict, be they civilians or combatants, and to broaden the scope of application to include all types of armed conflict.

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1 Convention for the Amelioration of the Condition of the Wounded in Armies in the Field, Geneva, 22 August 1864.
It also questioned whether nuclear weapons were compatible with the principles of international humanitarian law and urged States to reach an agreement banning their use, although its efforts in this respect proved futile.

Furthermore, the proliferation of internal armed conflicts, many occurring in the context of decolonization, prompted the ICRC to take the first steps towards formulating its policy on internal disturbances and political detainees.
At the outbreak of the Second World War, the main conventions in force concerning the protection of war victims were the Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armies in the Field of 27 July 1929 (hereinafter “the Wounded and Sick Convention”; the Hague Convention (X) for the Adaptation to Maritime Warfare of the Principles of the Geneva Convention of 18 October 1907 (hereinafter “the Maritime Convention”); and the Geneva Convention relative to the Treatment of Prisoners of War of 27 July 1929 (hereinafter “the Prisoners of War Convention”).

However, two of the main belligerents, the Soviet Union and Japan, had not ratified the Prisoners of War Convention, which meant that the parties to the conflict on the Eastern Front and in the Far East were not bound by it.

No provision was made in these humanitarian conventions for the treatment of civilians, except Articles 42 to 56 of the Regulations annexed to the Hague Convention (IV) of 18 October 1907, concerning the Laws and Customs of War on Land, which protected the population in occupied territory. This gap had been exposed by the First World War, during which many civilians were interned, deported and taken hostage.¹

The only mention of the ICRC was in the Prisoners of War Convention, which grants it a general right of initiative in humanitarian matters and a specific mandate in relation to the Central Agency of information regarding prisoners of war.

It is not our intention here to retrace the ICRC’s activities during the war or analyse the reasons for its failures and successes.² However, there are two points that warrant particular attention: the ICRC’s fragile legal basis meant that it carried out part of

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its activities without any legal grounding in specific provisions of treaty law in force at that time, and there was a stark contrast between the results it was able to achieve in assisting prisoners of war and civilians in areas where its work was supported by binding humanitarian rules and in areas where it was not.3

The Second World War therefore confirmed the ICRC’s conviction that it was necessary to extend the protection provided under the Conventions to all conflict victims and all types of conflict, to provide the Conventions with an effective system of supervision and to establish a more solid basis for its work in keeping with the developments that affected its activities.

The whole world was left reeling by this unprecedented cataclysm. The unthink-able violence, much of it directed against civilians, along with the discovery of the extent of the mass extermination carried out by the Third Reich and the horrors of the concentration camps, dealt a severe psychological blow.4

While there can be no doubt that the decision to draft the four Geneva Conventions of 1949 was sealed by this tragedy, work actually started on the preliminary studies for three of them in the interwar period.5

When the First World War was over, the ICRC turned its attention to the protection of civilians in enemy hands. It had prepared a new draft convention on this subject which it submitted to the 11th International Conference of the Red Cross held in Geneva in 1923, along with another on prisoners of war. However, with States set on outlawing war, the 11th International Conference decided to put this matter on hold for the time being. Only the draft convention on prisoners of war was submitted to the Swiss government, with a view to its consideration at the Diplomatic Conference of 1929, which adopted it along with the Wounded and Sick Convention. On the subject of civilians, the Diplomatic Conference merely recommended that “an exhaustive study should be made with a view to the conclusion of an international Convention regarding the condition and protection of civilians of enemy nationality in the territory of a belligerent or in territory occupied by a belligerent.”6

The ICRC persevered in its efforts, submitting a draft convention on civilians to the 15th International Conference of the Red Cross held in the Japanese capital in 1934. This time, the International Conference endorsed the proposed text, which became known as the “Tokyo Draft”, and instructed the ICRC to make the necessary approaches to the Swiss government to call a Diplomatic Conference. However, some

4 Information on the toll of the Second World War is provided on pp. 88 ff. above.
5 A brief account is provided here. For further details, see André Durand, History of the International Committee of the Red Cross: From Sarajevo to Hiroshima, op. cit., pp. 249 ff., 288 ff. and 383 ff.; and François Bugnion, op. cit., pp. 118 ff.
governments were reluctant and therefore slow to respond, and it was not until June 1939 that Switzerland was able to fix the date for early 1940. By that time, it was too late; the outbreak of the war put paid to the Diplomatic Conference.

The ICRC’s efforts to develop international humanitarian law had not focused solely on the protection of civilians of enemy nationality; it also studied issues relating to the regulation of the use of medical aircraft in wartime and the protection of the civilian population from the effects of war, particularly aerial warfare. This underscored the need to revise the basic instruments, namely the Wounded and Sick Convention and the Maritime Convention, in the light of the experiences of the Italo-Ethiopian War and the Spanish Civil War. The ICRC therefore prepared a whole series of texts to further develop existing law, with the help of qualified experts. As a result, on the eve of the Second World War, there were five draft conventions ready to be submitted to governments for consideration.7

In addition, the 10th International Conference of the Red Cross held in Geneva in 1921 had adopted a resolution affirming the right of all victims of civil wars and social and revolutionary disturbances to relief in accordance with the principles of the Red Cross.8 Acting on this resolution, the ICRC undertook activities in the conflict in Upper Silesia in 1921, the conflict that accompanied the establishment of the Irish Free State between 1922 and 1923 and the Spanish Civil War, which started in 1936. In view of the results of these activities, a resolution was adopted at the 16th International Conference of the Red Cross held in London in 1938 to reinforce the 1921 resolution, and the ICRC was called on to make use of “its practical experience, to continue the general study of the problems raised by civil war as regards the Red Cross, and to submit the results of its study to the next International Red Cross Conference”.9

During the Second World War,10 the ICRC’s energies were largely taken up by its activities in the field, but true to its role as promoter of international humanitarian

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   4. Draft convention for the establishment of hospital and safety zones in times of war.
   5. Draft convention concerning the condition and protection of civilians of enemy nationality in the territory of a belligerent or in the territory occupied by a belligerent (Tokyo Draft).


10 We will not describe at any great length here the efforts undertaken by the ICRC, as soon as the war began, to encourage States to bring into force the new rules envisaged on a reciprocal basis, in particular, those contained in the Tokyo Draft, which, in the event, was partially implemented. For further information on this subject, see the works of François Bugnion and André Durand referred to above and the study by Max Huber, “Principes, tâches et problèmes de la Croix-Rouge dans le droit des gens”, RICR, No. 310, October 1944, pp. 790–812, in particular pp. 807–809.
law it never lost sight of the fact that it would be vital to press ahead, as soon as the
guns of war fell silent, with its work to review the draft texts and the Prisoners of War
Convention in the light of the lessons learned from its wartime experience. \(^{11}\) It gath-
ered detailed documentation in the course of its work for this purpose.

Preparatory work

Memoranda of 15 February and 5 September 1945

On 15 February 1945, before the hostilities had even come to an end, the ICRC sent
out a memorandum to governments and National Red Cross Societies announcing its
intention to revise the existing conventions and have new agreements adopted in rela-
tion to the Red Cross. It also provided them with information on the work method
and work plan that it intended to adopt and called on them to assist in gathering the
necessary documentation. \(^{12}\)

The work method proposed by the ICRC was to use the same procedure as that
followed for the adoption of the two Geneva Conventions of 1929 and the prepa-
ration of the aborted Diplomatic Conference that was to have taken place in 1940.
The available literature would be gathered to compile comprehensive preliminary
documentation, any points needing extension, confirmation or amendment would
be underlined, draft conventions would be drawn up with expert help from govern-
ments, National Red Cross Societies and other relief societies and the draft conven-
tions would be submitted to the International Conference of the Red Cross and then
to a Diplomatic Conference for adoption.

The ICRC’s proposed work plan was to revise the existing conventions, namely the
two Geneva Conventions of 1929 and Hague Convention X of 1907, and to establish
new conventions on the protection of civilians of enemy nationality, the establish-
ment of hospital and safety zones, adaptation of the principles of the Wounded and Sick
Convention to air warfare (medical aircraft) and the protection of civilians from the
effects of war (including the protection of civilian hospitals).

It noted that there were already draft texts covering all these areas, except for
the Prisoners of War Convention, but they would need to be adapted in light of the
experiences of the war.

However, it was not without apprehension that the ICRC undertook this task. It
had two main concerns. The first was that, with peace on the way at last, it might seem

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\(^{11}\) Circular of 11 May 1943 from ICRC President M. Huber to ICRC members on post-war prob-

\(^{12}\) Preliminary documentation for the purpose of revising and establishing conventions concerning
the Red Cross, memorandum of 15 February 1945 sent by the ICRC to the governments of States
party to the Geneva Convention and National Red Cross Societies – ICRC Archives, B CR 238.
Text reproduced (in French) in *RICR*, No. 314, February 1945, pp. 85–89.
6. THE GENEVA CONVENTIONS OF 1949: A DECISIVE BREAKTHROUGH

an inappropriate time to be promoting such an undertaking. However, while “the Red Cross recognizes the primacy of efforts to prevent war,” as Max Huber put it, “it has the thankless task of preparing for it”. The ICRC had not forgotten the difficulties encountered after the First World War in this regard. The second and most pressing concern was the development of new means of warfare and the emergence of total war, a concern that led Max Huber to question whether “there is still a place for humanitarian rules in an era of total warfare?”

In its circular of 5 September 1945, a month after Hiroshima and Nagasaki, the ICRC drew the National Societies’ attention to these serious problems:

It is clear that developments in aviation and the increasingly destructive effects of bombing have made practically inapplicable the distinctions hitherto drawn, whereby certain classes of people had by right a special protection (for instance, the civil population in contrast to the armed forces). The inevitable development of weapons, and so of warfare as a whole, has a greater significance by reason of the exploitation of the discoveries in nuclear physics, which permit the producing of arms of a potency hitherto unknown (…)

In former times war was, essentially, an armed contest between combatant forces. Today, it supposes the total mobilization of all living forces of the nations against the enemy country and it involves the whole population (…) Mankind is thus faced with a problem of supreme gravity which calls for decisions on the moral plane.

The Geneva Convention gives guarantees to the wounded and sick of the armed forces – just as to their adversaries – that their lives will be protected and that they will have the right to proper care; the Convention on the treatment of prisoners of war watches over the physical and moral situation of those in captivity. The terms of these instruments declare the absolute inviolability of an enemy who is no longer fit for combat and give recognition to the dignity of the human personality. Protection of the civil population must rest on these same principles. The same applies to the endeavours made by the Red Cross to bring relief supplies of all kinds – foodstuffs, clothing and indispensable medicaments – to women, children and old people in occupied territories (…)

From totalitarian war have sprung new techniques. Must it then follow that the individual person will no longer enjoy the protection of the law and that he will thus be considered as a mere pawn in the mass struggle? That would mean the collapse of the principles that are the foundation of international law, which affords physical and moral protection to the human person.\textsuperscript{14}

\textsuperscript{13} Minutes of the meeting of the Legal Commission held on 18 January 1945 – ICRC Archives, B CR 211.

Its proposals were welcomed by both governments and National Societies, and the ICRC set to work. It created a legal division, soon staffed by a dozen or so experts, although only half of them worked full-time on revising the conventions (the other half were working on the ICRC’s report on its activities during the Second World War). This division reported to the ICRC’s newly strengthened Legal Commission, chaired first by Max Huber and later by Jean Pictet.\(^{15}\)

**Preliminary Conference of National Red Cross Societies**

In September 1945,\(^{16}\) the ICRC called a *Preliminary Conference of National Red Cross Societies for the study of the Conventions and of various Problems relative to the Red Cross*, giving the National Societies an opportunity to exchange views on the main aspects of their activities during the war.\(^{17}\) As its name indicates, a significant part of this meeting was devoted to international humanitarian law. The ICRC’s intention was to gather the experiences and suggestions of the National Societies in their areas of responsibility and action during the conflict. In preparation for the discussions, it

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\(^{15}\) Jean Pictet, the then director-delegate of the ICRC and head of the legal division, is the chief architect of the 1949 Conventions. He joined the ICRC in 1937 to help with the preparatory work for the revision of the Geneva Conventions. He acted as legal assistant in the expert committees set up for the 1940 Diplomatic Conference which had to be cancelled. He was initiated into international humanitarian law by legal expert Paul des Gouttes, who had himself worked closely for seventeen years with Gustave Moynier, ICRC President for forty-seven years. There was therefore an unbroken “line of descent” in the ICRC’s legal work. Jean Pictet then took on the editorship of the *Commentaries* on the four Geneva Conventions. He was appointed director general of the ICRC in 1966, was co-opted as a new member in 1967 and held the office of vice-president from 1971 to 1979. In these positions, he continued to foster efforts to develop international humanitarian law, which resulted in the adoption of the two Protocols of 8 June 1977 additional to the Geneva Conventions. Jean Pictet is also the main author of the modern version of the Fundamental Principles of the Red Cross, as adopted at the 20th International Conference of the Red Cross held in Vienna in 1965 and incorporated into the Statutes of the International Red Cross and Red Crescent Movement in 1986.

\(^{16}\) Around the same time, the ICRC organized a meeting of experts drawn from the neutral members of the mixed medical commissions, which had been responsible during the war for examining sick and wounded prisoners of war and for deciding whether they were eligible for repatriation or hospitalization in a neutral country. This meeting was to be followed, at the request of the participants, by a meeting of the sub-commission convened by the ICRC in May 1946 for the purpose of establishing a revised model draft agreement on the direct repatriation of the seriously sick and wounded. See *Report on the Meeting of Neutral Members of the Mixed Medical Commissions, held in Geneva on 27 and 28 September 1945*, ICRC, Geneva, December 1945; and *Report on the Meeting of the Sub-Commission for the Revision of the Model Draft Agreement (Annex to the Prisoners of War Convention of 27 July, 1929)*, ICRC, Geneva, July 1947.

\(^{17}\) Circular No. 371 of 10 September 1945 sent by the ICRC to the central committees of National Red Cross and Red Crescent Societies – ICRC Archives, B CR 241. It is reproduced (in French) in *RICR*, No. 321, September 1945, pp. 662–663. On the subject of the Preliminary Conference, see pp. 38 and 48 ff. above.
provided detailed documentation, which was supplemented by contributions from National Societies.

The Preliminary Conference of National Red Cross Societies was held in Geneva from 26 July to 3 August 1946. The ICRC submitted its proposals and first drafts for the revision of the Wounded and Sick Convention and a study on what it called “related provisions” – the Maritime Convention, the regulation of medical aircraft, hospital localities and zones and the protection of civilian hospitals – as well as a number of matters relating to the Prisoners of War Convention and to the establishment of a new convention concerning the protection of civilians. It also took the opportunity to revisit the question of protection for victims of civil wars, which it intended to include as part of this work.

The ICRC’s proposals were largely welcomed, and the Preliminary Conference endorsed the text of Circular No. 370 sent by the ICRC on 5 September 1945 concerning the Red Cross’s position on new methods of warfare and approved a resolution to be submitted for examination by the International Conference of the Red Cross, recommending a ban on chemical, biological and nuclear weapons.

As the next step in this work, it was decided to set up a Special Commission of National Red Cross Societies to study the new draft conventions, which would remain in close contact with the ICRC. The texts drafted by the ICRC would be submitted to this commission before being sent out to all the National Societies. The members of the Commission were appointed by the League’s Executive Committee.

An analytical report was produced, setting forth the outcomes of this Preliminary Conference in relation to each of the matters addressed, in addition to a summary report.

Conference of Government Experts

At the same time as it was planning this meeting of National Red Cross Societies, the ICRC was also making arrangements, at the urging of senior figures from the Allied powers concerned with the treatment of prisoners of war and civilian internees, to

18 Specifically, it consisted of three volumes: Revision of the Geneva Convention and related provisions (Vol. I); Convention relative to the Treatment of Prisoners of War (Vol. II); and Convention relative to Civilians (Vol. III), as well as a Report concerning Hospital and Safety Localities and Zones, ICRC, Geneva, June 1946.

19 Minutes of the meeting of the Legal Commission held on 1 May 1946 and the note of 29 April 1946 by Jean Meylan on the role and action of the Red Cross in civil war – ICRC Archives, B CR 211. It is worth noting that many countries were experiencing or facing the threat of civil war at that time.

20 On the circumstances surrounding the creation of this commission, see p. 52 above.

bring together a number of experts in the field. To this end, it consulted with the
five main powers – China, the United States, France, Great Britain and the Soviet
Union – without whose involvement such a project would have little chance of success.
It proposed holding an informal, preparatory meeting, scheduled for early 1946, to be
attended by specialists from these five nations and from a dozen or so other Allied
powers who had held considerable numbers of prisoners of war and civilian internees
and whose own nationals had been in enemy hands. With reference to its memo-
randum of 15 February 1945, it suggested confining the agenda, in this initial stage, to
an exchange of views on revising the Prisoners of War Convention and the possibility
of establishing a new convention on civilians of enemy nationality (hereinafter the
“Civilians Convention”). It kept open the option of organizing other meetings, at a
later date, for experts from countries who had not taken part in this first meeting.22

The United States, France, Great Britain and China all accepted the ICRC’s invi-
tation, the first three undertaking to prepare documentation on the subject.23 The
USSR replied that, as the Soviet Alliance of Red Cross and Red Crescent Societies
had not yet completed its examination of issues relating to prisoners of war, it was
unable, at that time, to formulate a final opinion on these matters. It therefore missed
the chance to take part in the Conference of Government Experts.24

France and Great Britain had different thoughts on what items should be included
on the agenda. In its reply to the ICRC, France made reference only to the revision
of the Prisoners of War Convention, while Great Britain proposed adding the revi-
sion of the Wounded and Sick Convention and leaving the question of the Civilians
Convention until later. This raised numerous new problems.25

Fearing a repetition of the interwar scenario, when the question of civilians had
been put off from one conference to the next, finally leaving civilians with practi-
cally no convention-based protection at the start of hostilities, and concerned, at the
dawn of the Cold War, about the possibility of a new conflagration breaking out, the
ICRC approached Great Britain and other States directly concerned to prevent this
matter, which it regarded as crucially important, from being struck from the agenda.26

22 Circular sent on 5 September 1945 by acting president of the ICRC, M. Huber, to the governments
of China, United States, France, United Kingdom and USSR – ICRC Archives, B CR 240.
23 Letters of 5 February, 27 March and 28 March 1946 from the American, French and British foreign
ministries – ICRC Archives, B CR 240. Letters of 15 April and 18 May 1946 from the Chinese
Legation in Bern and letter of 22 July 1946 from the Chinese foreign ministry in Nanjing – ICRC
Archives, CR 240.
25 On the position of the British Government on the preparation of the Conventions of 1949, see
Geoffrey Best, “Making the Geneva Conventions of 1949: The view from Whitehall”, in Christophe
Swinarski (ed.), Studies and Essays on International Humanitarian Law and Red Cross Principles in
26 Minutes of the meetings of the Bureau held on 11 April and 9 May 1946. Minutes of the meeting
of the Legal Commission held on 1 May 1946. Minutes of the plenary meeting of the ICRC held
on 20 June 1946 – ICRC Archives, A PV.
It was this situation that prompted it to suggest addressing the three subjects simultaneously: the wounded and sick, prisoners of war and civilians. In support of its proposal, it pointed out that, during the war, civilian internees had been treated similarly to prisoners of war, and it would therefore be logical to study the status of these two categories of victims in parallel.  

France and Great Britain were persuaded by this argument, and on 26 July 1946 the ICRC was finally able to call the meeting. The date was set for spring 1947, a year after originally planned, to give the governments time to get the required documentation together. In addition to the Big Five, thirteen other countries were invited to send experts to Geneva, namely Australia, Belgium, Brazil, Canada, Czechoslovakia, Greece, India, the Netherlands, New Zealand, Norway, Poland, the Union of South Africa and Yugoslavia.

Negotiations were under way for the signing of peace treaties between the Allied powers and Bulgaria, Finland, Hungary, Italy and Romania, and the ICRC was unsure about whether to invite these five States to the Conference of Government Experts. It decided to consult the Big Five on this matter, as they had been approached at the outset about the very principle of the conference and how the work would be carried out. In its letter, the ICRC indicated that it would adhere to the original plan if any one of the powers consulted did not want the circle to be extended. The United States and Great Britain – arguing that time constraints would make it impossible for the States concerned to prepare properly for the Conference – answered in the negative, while the other three powers were in favour of inviting them. The ICRC did not therefore invite them but was keen to have the benefit of the experience and opinions of all the States who had taken part in the recent conflict, either as a party to the conflict or as a protecting power.

27 Letter of 30 April 1946 to the French foreign ministry and letters of 23 May 1946 to the British and American foreign ministries, all three signed by M. Huber – ICRC Archives, B CR 240.

28 According to agreements established in memoranda exchanged at the start of the war between the main belligerent powers, the term “civilian internee” refers to enemy civilians arrested at the outbreak of hostilities in the territory of a belligerent nation or a territory occupied by it, solely on the grounds of their nationality. The ICRC had secured for them guarantees similar to those enjoyed by prisoners of war. These guarantees did not, however, extend to victims of racial persecution, political detainees or hostages being held in prisons or deported to concentration camps.

29 Minutes of the meetings of the Bureau held on 14 November 1946 and 20 February 1947 and minutes of the meeting of the Legal Commission held on 19 February 1947 – ICRC Archives, A PV.


32 A neutral State designated to represent the interests of a party to the conflict before its adversary and to carry out humanitarian functions to help the nationals of the country it represents.
documentation for the Conference of Government Experts was sent to them on 28 February 1947, along with a letter in which it asked them to provide it with any observations and suggestions they may have and offered to meet with any country wishing to discuss the issues further. The documentation was also forwarded to the National Red Cross Societies, so that they could study the subject matter in preparation for the 17th International Conference of the Red Cross to be held in Stockholm in 1948.

Around 80 experts, representing 15 countries, that is to say, all those invited except the Soviet Union, Greece and Yugoslavia, took part in the Conference of Government Experts for the Study of the Conventions for the Protection of War Victims, which was held in Geneva from 14 to 26 April 1947. Attempts by the ICRC to convince the Soviet Union to take part in the Conference were in vain, even though the date had been put back. Yugoslavia informed the ICRC, shortly before the Conference was due to start, that it did not agree with the way it intended to revise the Conventions. Greece, for its part, was unable to attend due to last-minute practical difficulties.

Like the Preliminary Conference of National Red Cross Societies, the Conference of Government Experts was held for the purpose of exchanging views on the experiences that the countries had had in applying humanitarian conventions during the world war that had just ended, identifying inadequacies and deficiencies and finding ways to overcome them. In his opening speech, Max Huber focused first on the main question to be addressed at the meeting. Remarking that there were clearly gaps that needed to be filled in the two Geneva Conventions of 1929 and Hague Convention X of 1907 – which only cover members of the armed forces – he went on to say:

33 See footnote 40, p. 219 below.
34 Minutes of the meeting of the Legal Commission held on 6 December 1946 – ICRC Archives, A PV. Circular letter of 28 February 1947 from the ICRC, signed by Vice-Presidents Martin Bodmer and Ernest Gloor – ICRC Archives, B CR 240.
35 A month earlier, on 3 March 1947, the ICRC had arranged a meeting in Geneva, bringing together the representatives of 16 lay and religious institutions (Catholic, Jewish, ecumenical and Protestant) which, in cooperation with the ICRC, had been engaged during the war in meeting the spiritual, intellectual and recreational needs of prisoners of war. The purpose of the meeting was to hear about their experiences and opinions in relation to their particular field. The work carried out at this meeting resulted in the production of a report (Report on the work of the Commission for the study of treaty stipulations relating to the spiritual and intellectual needs of prisoners of war and civilian internees, Geneva, 3–4 March 1947, reproduced in French in RICR, No. 341, May 1947, pp. 399–421). This report was also distributed to relief organizations belonging to faiths not represented at the meeting, which were invited to provide feedback.
36 Letter of 5 June 1946 from M. Huber to Ambassador A. Bogomolov – ICRC Archives, B CR 240. On the subject of the meetings between M. Huber and Anatole Koulagenkov, envoy extraordinary and minister plenipotentiary of the Soviet Union in Switzerland, held in Bern in November 1946 and March 1947, see the letter of 3 December 1946 from Huber to Koulagenkov following his visit – ICRC Archives, B CR 240; and the minutes of the meeting of the Bureau held on 20 March 1947 – ICRC Archives, A PV.
37 Letter of 8 April 1947 from Vladimir Velebit, Yugoslav vice-minister of foreign affairs, to the ICRC – ICRC Archives, B CR 240. On the Yugoslav position, see also p. 41 above.
In contrast, civilians individually and the civilian population as a whole are not, as it were, protected under the Conventions. There are, it is true, provisions in the Hague Convention (IV) on War on Land that aim to protect the population of an occupied territory. They were not, however, sufficient to prevent – in 1914–18 – deplorable acts in the absence of more precise limitations on the powers of the occupying power; in any event, these provisions apply only to occupied territories and do not cover civilians in enemy countries. They do not take into account new methods of warfare: the technical, political and economic methods of what is referred to as ‘total war’ (...

Modern warfare puts civilians in almost as much danger as armed forces and exposes them to extremely severe austerity measures. The tragic events of the last conflict have greatly stirred public opinion in all countries (...) Everywhere, people are calling for serious measures to be adopted urgently to prevent anything similar ever happening again (...) The Stockholm Conference and the subsequent Diplomatic Conference must at all costs achieve positive results in this regard, and a convention must enter into force in the near future. Without underestimating the difficulties and sensitive nature of the problem, it must be recognized that this, along with the prohibition of certain new weapons, is a matter of paramount importance.38

The three items submitted to the Conference of Government Experts for consideration were: the revision of the Wounded and Sick Convention and related provisions;39 the revision of the Prisoners of War Convention; and the drafting of a convention on the condition and protection of civilians in wartime.

The work of the Conference to address these three points involved formulating the substance of the amendments that needed to be made to the existing Conventions and determining the contents of the new provisions that would be introduced into existing conventions or form the new convention. The three volumes of documentation submitted by the ICRC,40 each addressing one of these areas of work, were at different stages of development; the draft concerning prisoners of war was by far the most advanced, while the draft relating to civilians, in spite of the importance the ICRC ascribed to this subject, was the least developed, owing to the complexity of the issues involved.

Indeed, these were uncharted waters. While the Geneva Conventions had been concerned, up to this point, solely with members of the armed forces, a well-defined group subject to strict discipline, the new convention would cover an unorganized mass of civilians. It would not only have to protect people who had become victims of

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39 On the related provisions, see p. 215 above.
war (the wounded and prisoners), as previous conventions had, but also prevent these people from becoming victims. Those who have been wounded or taken prisoner are considered to have been rendered harmless, but most civilians, on the other hand, are not incapacitated and are perfectly able to do harm. It also meant venturing into a much more sensitive area, and the ICRC considered that, at this stage of its work, the subject had not been sufficiently matured for it to feel confident about preparing a draft convention from scratch.

Without dwelling on the substance of the discussions, the following observations about the provisions for the Wounded and Sick Convention provide an understanding of how the ICRC put together the four draft conventions. Like the Preliminary Conference of National Red Cross Societies, the Conference of Government Experts confirmed the need to protect wounded and sick civilians and civilian hospitals and the people working in them in accordance with the same humanitarian principles as applied to the armed forces. It was suggested at the Conference that new provisions be introduced to provide such protection in the new Civilians Convention. On the subject of medical aircraft, it was agreed that it would be enough to extend the existing article in the Wounded and Sick Convention and that there was no need to establish a new convention on this. It was also suggested that provisions concerning hospital localities (the Conference of Experts eliminated references to hospital zones, but the term reappeared later on) should be included in the Wounded and Sick Convention and in the new Civilians Convention, with a view to providing places of refuge for wounded and sick members of the armed forces and civilians respectively.

The fact that the Conference of Experts followed the ICRC’s proposal to introduce in each of the Conventions the principle of the application of the Conventions in cases of civil war was a major breakthrough.

Keen to conclude the work at hand, the Conference of Experts issued a recommendation to be conveyed to the governments for the Diplomatic Conference to be held as soon as possible and, in any case, no later than 30 April 1948. This recommendation failed to take into account the fact that examination of the draft conventions had been included on the agenda of the 17th International Conference of the Red Cross to be held in Stockholm in August 1948.

As for the Preliminary Conference of National Red Cross Societies, two reports were produced as a result of the Conference of Government Experts, one a summary

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42 It was French delegate Claude Bourdet who, at the Conference of Experts, provided a complete first draft of the convention. Although it was too detailed and had to be pruned, it provided the basis for the new Civilians Convention. Jean Pictet, “The formation of international humanitarian law”, *IRRC*, No. 244, January–February 1985, pp 3–24, in particular p. 13.

report, which was forwarded to all the States and National Societies, and an analytical report, which was sent, in early 1949, to the governments of the countries that had taken part in the Conference of Experts and the National Societies that were members of the Special Commission of National Societies.

The Conference of Experts was followed by a second consultation meeting held in Geneva from 9 to 12 June 1947, which brought together government experts from four States that had not been invited to the Conference, but had accepted the ICRC’s offer to meet with them to discuss issues addressed in the documentation. It was attended by representatives of Austria, Hungary, Romania and Switzerland, as well as by a representative of the Greek government who had not been able to arrive in time for the April Conference. With the consent of the Allied Control Council, the ICRC also contacted a number of German experts, who provided some written comments after examining the documentation.

In early May, the recommendation issued by the government experts to bring forward the Diplomatic Conference was conveyed by the ICRC to the Swiss government, the depositary of the two Geneva Conventions of 1929, so that it could determine, together with the other governments concerned, particularly the government of the Netherlands, the depositary of Hague Convention X of 1907, the next steps to be taken.

The ICRC also brought this recommendation to the knowledge of the International Red Cross, through Count Folke Bernadotte, chair of the Standing Commission, the body responsible for calling International Conferences of the Red Cross, and Basil O’Connor, chairman of the League, whose Executive Committee was to appoint the Special Commission of National Societies. Any decision to bring forward the date of the Diplomatic Conference would concern both these bodies. The ICRC assured all those involved that if the Diplomatic Conference were to be held within the recommended timeframe, it would take the necessary measures to ensure that the National Societies were able to give their view on the contents of the draft conventions beforehand. Lastly, it sent out a letter to the governments and National Societies to inform them of the recommendation, accompanied by a copy of the Summary Report on the Work of the Conference of Government Experts.

44 Supreme political and economic decision-making body for the whole of Germany, formed by the four occupying powers, namely the United States, France, the United Kingdom and the USSR.
45 Note of 11 April 1947 from the ICRC to the Allied Commission of Control and the reply of 7 July 1947 from the Allied Control Council to the ICRC – ICRC Archives, B CR 240.
46 Minutes of the meeting of the Bureau held on 8 May 1947 – ICRC Archives, A PV.
47 Letters of 16 May 1947 from the two vice-presidents, Martin Bodmer and Ernest Gloor, on behalf of the president of the ICRC, to Count Folke Bernadotte of Wisborg and Basil O’Connor – ICRC Archives, B CR 221.
48 Circular letters of 23 June and 4 July 1947 from the ICRC to governments and Circular No. 383 of 4 July 1947 from the ICRC to the central committees of National Red Cross Societies – ICRC Archives, B CR 240.
The Special Commission of National Red Cross Societies met in Geneva on 15 and 16 September 1947. It was chaired by Viscount Truchis de Varennes, administrator of the French Red Cross, and formed by representatives of eleven National Societies, namely Australia, Belgium, China, France, Great Britain, Greece, Mexico, Peru, Poland, Sweden and the United States. It approved the work of the ICRC and put forward some useful suggestions.

The possibility of a second conference of experts

However, the Conference of Experts, which had formulated this recommendation in a moment of euphoria, had not reckoned with the drawn-out diplomatic formalities or the numerous points requiring further examination before the draft conventions, particularly the one concerning civilians, could be finalized.

On the diplomatic front, having secured the agreement of the government of the Netherlands, the Swiss government consulted some thirty capitals to ascertain whether they would be in favour of following the experts’ recommendation to hold the Diplomatic Conference at an earlier date.

At the same time, the French government suggested organizing a second conference of experts before the Diplomatic Conference. It hoped to persuade the Soviet Union and the Eastern European countries to attend and approached them unofficially to sound them out about the possibility. This idea was, however, abandoned when the Soviet Union declined, arguing that the problems associated with the revision of the Conventions should first be examined by the International Conference of the Red Cross.

The major powers – in spite of the view expressed by the representatives of some of them at the Conference of Experts – mostly replied in the negative to the enquiries from Bern. Among them was Great Britain, which agreed to a Diplomatic Conference being held in April 1948 for the revision of the three existing Conventions, but not for the conclusion of a new convention on civilians, on the grounds that this subject had not been sufficiently matured. This was a cause of grave concern to the ICRC.

The idea of a second conference of experts was raised again, but this time it would be held not before the International Conference of the Red Cross but between the latter and the Diplomatic Conference, so that there would be an opportunity for further exchanges of views, particularly on the Civilians Convention.

The ICRC, removed from this diplomatic to-ing and fro-ing, realized, after the initial euphoria following the Conference of Experts had subsided, that there was a great deal of work still to be done to improve the draft conventions and that it would perhaps be unwise to hurry the Diplomatic Conference. Surely it would be better to hold the conference later and deal with all the Conventions at the same time. The ICRC also reckoned that powers still holding prisoners of war or occupying

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territories might find it difficult, while the situation continued, to sign a convention condemning their policy; all the prisoners of war would have to be repatriated before the end of 1948.50

It was on 11 May 1948 that the Swiss government was finally able to officially announce its intention to call a Diplomatic Conference, which would be held in Switzerland at the end of 1948 or the beginning of 1949, for the purpose of revising the two Geneva Conventions of 1929 and Hague Convention X of 1907 and establishing a new convention on civilians in wartime. The letter sent out to the governments was accompanied by a memorandum recalling the main stages in the development of international humanitarian law since the International Conference of the Red Cross held in Tokyo in 1934. It ended with these words:

The question of whether a meeting of Government experts should be held during the interval between the conclusion of the Stockholm Conference and the beginning of the Diplomatic Conference has still to be decided. The value of another meeting of experts or of a preparatory conference can best be judged when the results of the discussions at Stockholm become known, and a decision regarding the matter can then be taken.

For the above reasons, Switzerland will not be able to decide on a suitable date for the Diplomatic Conference before next September.51

In any event, the ICRC made the most of the time it had after the Conference of Experts of April 1947 to continue its work and progress towards completing the draft conventions, in particular the new convention on civilians. In mid-May 1948, it forwarded to all the governments a document52 containing the results of three years of preparatory work: the drafts of the three revised conventions (wounded and sick, maritime warfare and prisoners of war) and the draft of the new convention (civilians), accompanied by a historical introduction.

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50 Minutes of the meeting of the Bureau held on 17 July 1947 and the plenary meeting of the ICRC held on 15 January 1948 – ICRC Archives, A PV.
The 17th International Conference of the Red Cross

The 17th International Conference of the Red Cross was held in Stockholm from 20 to 30 August 1948 and was chaired by Count Folke Bernadotte, president of the Swedish Red Cross. Delegations from 56 countries (governments and National Societies) took part, but the Soviet Union and seven Central and Eastern European countries, including Yugoslavia, stayed away.

The reasons given by the Soviet Union for not attending focused chiefly on the ICRC, which it claimed “did not protest against the fascist crimes and against the gravest violations of the International Conventions (…) committed by Hitler Germany”. The absence of these countries prompted the adoption of a resolution at the Conference calling on the government of the Union of Soviet Socialist Republics, the Soviet Alliance of Red Cross and Red Crescent Societies and the governments and National Red Cross Societies of the countries not present to collaborate in preparing the Red Cross Conventions that the 17th International Conference was working on.

The conference participants approved the four draft conventions, with a number of amendments, and the ICRC was asked to ensure that governments received a copy of the drafts in preparation for the Diplomatic Conference. A General Recommendation was also adopted, in which the International Conference:

notes that these Drafts, in particular the new Convention on the Protection of Civilians, correspond to the fundamental aspirations of the peoples of the world and that they define the essential rules for that protection to which every human being is entitled,

(...) draws especially the attention of Governments to the urgent necessity of ensuring the effective protection of civilians in time of war by a Convention, the lack of which was so cruelly felt during the last war, and urges that all States, immediately and without awaiting the conclusion of this Convention, apply its principles in the cases provided for,

recommends furthermore that all Governments meet at the earliest possible moment in Diplomatic Conference for the adoption and signature of the texts now approved.

Also worth noting is Resolution XXIII concerning the suppression of violations of the Conventions, a subject on which the ICRC submitted a report. The 17th International

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53 He was later assassinated by Zionist extremists (Stern gang) in Jerusalem on 17 September 1948, while pursuing his duties as a United Nations mediator.
54 See also p. 72 above.
56 17th International Conference of the Red Cross, Stockholm, August 1948: Report, op. cit., p. 91. See also p. 75 above.
58 Ibid., p. 93.
Conference also recommended that the ICRC “continue its work in connection with this important question and submit proposals to a later Conference”.59

As planned, the Swiss government took the opportunity offered by the 17th International Conference to approach other government delegations about the date of the Diplomatic Conference and the possibility of holding a preparatory conference beforehand. The British authorities declared themselves in favour, while the United States was against the idea.60

Three weeks later, on 20 September 1948, Switzerland announced that the Diplomatic Conference would be held on 25 March 1949 in Geneva. The plan was for the Conference to sit for several weeks and then adjourn, once the final texts had been drafted, to give the delegations time to take them back to their respective governments and receive instructions. Following this break, there would be a second session essentially devoted to the signing of the new conventions.61

This was the solution proposed by the Swiss government, so as to take advantage of the benefits of a preparatory conference, without the drawback of having to postpone the Diplomatic Conference for several months. For practical reasons, the Conference was, in the end, pushed back a month and finally began on 21 April 1949.62

In the invitation sent out by the Swiss government, there was no mention of the ICRC – although it was to take part in the Conference as an expert – or of the 17th International Conference, for fear of giving the Soviet Union and the Eastern European countries an excuse not to attend.63

The ICRC’s overriding concern, after Stockholm, was to establish the texts of the draft conventions, as they had been amended and approved at the 17th International Conference. In early November, it forwarded them to all the governments and National Societies, inviting them to send it any feedback or suggestions that they might have.64

This did not, however, bring to a close the preparatory work that the ICRC had been engaged in for three years, as there was still more to be done. In fulfilment of the mandate that it received at the 17th International Conference in this regard, the ICRC established draft articles on the suppression of violations of the Conventions, with the help of a number of specialists who met in Geneva. It also made some adjustments rendered necessary by the amendments introduced at the 17th International

59 Ibid., p. 94.
60 Minutes of the meeting of the Bureau held on 9 September 1948 – ICRC Archives, A PV.
61 Circular letter of 20 September 1948 from the Swiss Federal Department of Foreign Affairs to the foreign ministries of all the governments invited to attend the Diplomatic Conference, reproduced in Final Record 1949, I, op. cit., pp. 148–149.
62 Telegram of 7 January 1949 from the Swiss Federal Department of Foreign Affairs to all the governments concerned, reproduced in Final Record 1949, I, op. cit., p. 149.
63 Minutes of the plenary meeting of the ICRC held on 18 November 1948 – ICRC Archives, A PV.
64 Circular letters of 1 November 1948 and 3 November 1948 from the ICRC to all governments concerned and National Societies – ICRC Archives, B CR 238 and CR 221. Text of draft international conventions for the protection of war victims as approved by the 17th International Conference of the Red Cross, Geneva, ICRC, 1948, reproduced in Final Record 1949 I, op. cit., pp. 45–143.
Conference. This last-minute work, which took into account suggestions made by the National Societies, resulted in the publication of a document entitled *Remarks and Proposals*, which was sent out to governments, National Societies and other institutions concerned in mid-March 1949.

In the meantime, on 15 January 1949, the Swiss government had provided all those invited to attend the Diplomatic Conference with the official documentation, consisting of four booklets, one for each convention, which presented, in the form of a table, the text in force, the draft submitted by the ICRC to the 17th International Conference and the text as approved in Stockholm.

**Proceedings of the Diplomatic Conference of 1949**

The Diplomatic Conference for the Establishment of International Conventions for the Protection of War Victims opened on 21 April 1949 at the General Council Hall in Geneva. It was chaired by Federal Council member Max Petitpierre, who headed the Swiss Federal Department of Foreign Affairs. It ended on 12 August 1949, following the adoption of the four Geneva Conventions.

Sixty-four nations, almost all the world's countries, attended the Conference, fifty-nine as full participants and five as observers. The Soviet Union announced that it would be attending just a few days before the Conference was due to start, and all the Eastern European countries followed suit, represented, if not by delegates, at least by observers.

The only one of the major powers of the Second World War not to attend the Conference was Germany, because at that time there was no sovereign German State. Japan was represented at the Conference by observers.

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66 The Swiss foreign minister.

67 Afghanistan, People’s Republic of Albania, Argentina, Australia, Austria, Belgium, Bolivia, Brazil, Bulgarian People’s Republic, Republic of the Union of Burma, Byelorussian Soviet Socialist Republic, Canada, Chile, China, Colombia, Costa Rica, Cuba, Czechoslovakia, Denmark, Ecuador, Egypt, El Salvador, Ethiopia, Finland, France, Greece, Guatemala, Holy See, Hungarian People’s Republic, India, Iran, Republic of Ireland, Israel, Italy, Lebanon, Liechtenstein, Luxembourg, Mexico, Monaco, Netherlands, New Zealand, Nicaragua, Norway, Pakistan, Peru, Portugal, Romanian People’s Republic, Spain, Sweden, Switzerland, Syria, Thailand, Turkey, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay and Venezuela, *Final Record 1949, I, op. cit.*, pp. 158–170.


69 Note of 15 April 1949 from the Soviet foreign minister to the Swiss Legation in Moscow – Bern, Federal Archives, 2001 (E) 1967/113/874.

70 The Federal Republic of Germany officially came into being on 5 May 1949, and the German Democratic Republic on 7 October 1949.
The United Nations and six other intergovernmental organizations whose activities were in some way connected to the object of the Conventions were also invited to attend as observers.\textsuperscript{71}

The participation of the ICRC in the Diplomatic Conference as an expert was accepted from the outset, and the League was also invited to participate in the same capacity three weeks later.\textsuperscript{72}

The proposal to invite the ICRC to take part in the Conference as an expert was made by Max Petitpierre, on behalf of the Swiss delegation, at an unofficial meeting of the heads of delegation held on the eve of the Conference.\textsuperscript{73} The heads of delegation unanimously agreed that the work of the Conference would be greatly facilitated by the participation of the ICRC, and the proposal was officially accepted at the plenary meeting held on 21 April. In the letter of invitation addressed to the ICRC, Max Petitpierre remarked that this decision was an acknowledgement by the Conference of the crucially important role played by the ICRC in the preparation of the draft conventions.\textsuperscript{74}

In response to the invitation, the ICRC appointed as experts Paul Carry, professor at the University of Geneva and ICRC member, Jean Pictet, director-delegate, Claude Pilloud, head of the legal division, and René-Jean Wilhelm, member of the legal division. These were people who had been called on to comment on the draft conventions at the 17th International Conference. The ICRC reserved the right to call on other staff members and officers, depending on the issues to be examined and the nature of the subject to be discussed.\textsuperscript{75} Adviser Frédéric Siordet would later be included in the ICRC’s permanent delegation. Therefore, throughout the Conference, the ICRC was able, through its delegates, to elucidate the issues under discussion, comment on the texts approved at the Stockholm Conference and recall the humanitarian principles of the Red Cross.


\textsuperscript{72} On 10 May 1949, \textit{Final Record 1949, II A, op. cit.}, minutes of the 2nd, 5th and 6th plenary meetings, pp. 15–17, 27 and 31. At the time, although the ICRC recognized the value of the League’s presence as an observer, it was wary about it being granted the status of expert. To begin with, the League had not been involved in the preparation of the draft conventions – unlike the National Red Cross Societies, some of which were represented in government delegations. Second, the ICRC feared that putting the two organizations on the same footing in this way might lead to confusion and put a question mark over the division of roles and responsibilities, which had just been confirmed at the 17th International Conference. However, these fears did not materialize, as the two organizations acted in concert to prevent any confusion.

\textsuperscript{73} Diplomatic Conference of 1949. Verbatim records of the proceedings of the meeting of heads of delegation held on 20 April 1949 – ICRC Library. Minutes of the meeting of the Presidential Council held on 21 April 1949 – ICRC Archives, A PV.

\textsuperscript{74} Letter of 21 April 1949 from Max Petitpierre to the ICRC – ICRC Archives, B CR 221.

\textsuperscript{75} Letter of 25 April from Paul Ruegger to Max Petitpierre, president of the Diplomatic Conference – ICRC Archives, B CR 221. Minutes of the plenary meeting held on 25 May 1949 – ICRC Archives, A PV.
The draft conventions adopted at the 17th International Conference formed the sole working documents of the Diplomatic Conference. Although they were revised article by article, the framing of the conventions remained practically unchanged.

The work of the Conference was conducted according to a process that began with the draft conventions being examined in detail by the four main committees formed for this purpose, which divided into sub-committees and working parties where necessary. Committee I (which was to hold 39 meetings) was tasked with revising the Wounded and Sick Convention and the Maritime Convention, Committee II (36 meetings), with revising the Prisoners of War Convention, and Committee III (51 meetings), with drafting a new convention on civilians. A fourth committee, called the Joint Committee (13 meetings), formed by representatives from the other three committees, had the job of studying the articles common to all the Conventions.

The draft conventions were then passed on to a Coordination Committee, responsible for examining the conclusions formulated by the four main committees and identifying any inconsistencies in them. They then went to the Drafting Committee. The resulting texts were submitted to the Plenary Assembly, which started the final reading on 21 July (seven meetings held from 21 April to 25 May and thirty from 21 July onwards).

According to various eye-witness accounts, no conference had ever been so well prepared. It lasted a surprisingly long time, taking almost four whole months to complete its work, far longer than originally anticipated. However, there was a positive feeling at the meetings. Mindful of the fact that the effectiveness of the conventions depended on their universality, the delegations sought to frame the texts in such a way as to secure the widest possible approval, rather than resolving matters by a majority vote, hence the seemingly slow progress. At the end of the Diplomatic Conference, Frédéric Siordet remarked that it “left all those who had taken part in it with an uplifting impression”, adding that it was “a rare thing to see a conference in which such a large number of countries persevered for so many weeks in their patient quest to establish a common expression of their intentions. Seldom has there arisen among diplomatic representatives of so many countries separated, as they are today, by inflexible political and ideological views, a sense of camaraderie and frank discussion.

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79 This conference was not excessively long, when compared to the four sessions of the Diplomatic Conference 1974–1977, totalling over eight months of work, required for the adoption of the two Protocols of 8 June 1977 additional to the Geneva Conventions of 1949, although it is true that there was almost double the number of States participating in that conference.
such as that prevailing throughout the discussions in Geneva.” In his closing speech, President Max Petitpierre paid tribute to the spirit of goodwill shown by the delegates: “In spite of natural, though at times profound, differences of opinion, we have done constructive work. That is due to your spirit of initiative and understanding, and to your endeavours to reconcile your own convictions, in the solutions you advocated, with a sincere wish to achieve the result desired by all.”

As a result of their efforts, the final texts of the four Geneva Conventions were adopted at the 36th Plenary Assembly:

- Geneva Convention for the Amelioration of the Conditions of the Wounded and Sick in Armed Forces in the Field (Convention I), adopted by 47 votes to zero, with one abstention (Israel).
- The Convention for the Amelioration of the Conditions of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea (Convention II), adopted by 48 votes to zero, with one abstention (Israel).
- The Convention relative to the Treatment of Prisoners of War (Convention III), adopted unanimously by the 49 delegations taking part in the vote.
- The Convention relative to the Protection of Civilians in Time of War (Convention IV), adopted by 47 votes to zero, with two abstentions (Burma and Israel).

The four Conventions are dated 12 August 1949. This is the date of the signature of the Final Act of the Diplomatic Conference to which they are appended and which authenticates them. Eleven resolutions adopted at the Conference are also appended to the Final Act, three of which concern the ICRC. Two of the resolutions grant the ICRC a mandate: Resolution 3 relating to the preparation of a draft model agreement on the procedures for retaining and relieving medical personnel; and Resolution 9 on the preparation of a series of specimen telegram messages for use by prisoners of war. In Resolution 11, the Conference “recognizes the necessity of providing regular financial support for the International Committee of the Red Cross”.

81 Final Record 1949, II B, op. cit., minutes of the 36th plenary meeting, pp. 519–520.
82 The Israeli Delegation abstained from the vote on account of the wording of the provisions concerning the distinctive emblem in the First, Second and Fourth Conventions (see also p. 241 below). The Burmese delegation abstained from the vote on the Fourth Geneva Convention relating to civilians, expressing its disagreement with what it saw as an extension of international conventions to cover matters that are the domestic concern of a State. It considered that such provisions were contrary to the principles of the United Nations and international law.
At the closing session on 12 August, the plenipotentiaries of 59 States signed the Final Act.\textsuperscript{84}

Sixteen delegations signed the four new Geneva Conventions at this ceremony, and two delegations\textsuperscript{85} signed three of them. There was then a six-month period in which the remaining delegations could sign them.

While some of the delegations confirmed that they were ready to sign the Geneva Conventions immediately at the end of the Diplomatic Conference, others asked for some time to take the texts back to their respective governments for a final examination. It was therefore decided to hold two official signing ceremonies, one on 12 August, at the closing session, and a second one on 8 December 1949.

At this second signing ceremony\textsuperscript{86} – for which the Alabama Room table at which the original Geneva Convention of 1864 had been signed was moved to the General Council Hall – 27 delegations signed the First Geneva Convention, 28 the Second,\textsuperscript{87} 27 the Third and 27 the Fourth.\textsuperscript{88}

The Geneva Conventions remained open for signature at the Swiss Federal Department of Foreign Affairs in Bern until 12 February 1950. As of this date, 61 States\textsuperscript{89} had signed the first three Conventions, and 60 the fourth, including China, France, the United Kingdom, the United States and the USSR.

All 59 countries represented with full powers at the Diplomatic Conference had therefore signed the Conventions, except Burma, Costa Rica and Thailand. They were also signed by two States represented as observers, that is, Poland and Yugoslavia, and three States that had not attended the Diplomatic Conference, namely the Philippines, Paraguay and Ceylon.\textsuperscript{90}

The Geneva Conventions entered into force on 21 October 1950, six months after the first two instruments of ratification had been deposited. Switzerland was the first country to ratify them on 31 March 1950, followed by Yugoslavia on 21 April.

\textsuperscript{84} Final Record 1949, II B, op. cit., minutes of the 37th plenary meeting, pp. 527–531.

\textsuperscript{85} The United States delegation signed the first three Geneva Conventions, and the Austrian delegation the First, Third and Fourth Conventions.

\textsuperscript{86} Final Record 1949, II B, op. cit., signing ceremony, pp. 532–538.

\textsuperscript{87} Including Austria.

\textsuperscript{88} Including the United States, but not Ceylon, which only signed the first three Conventions.

\textsuperscript{89} Afghanistan, People’s Republic of Albania, Argentina, Australia, Austria, Belgium, Byelorussian Soviet Socialist Republic, Bolivia, Brazil, Bulgarian People’s Republic, Canada, Ceylon, Chile, China, Colombia, Cuba, Czechoslovakia, Denmark, Ecuador, Egypt, El Salvador, Ethiopia, Finland, France, Greece, Guatemala, Holy See, Hungarian People’s Republic, India, Iran, Republic of Ireland, Israel, Italy, Lebanon, Liechtenstein, Luxembourg, Mexico, Monaco, Netherlands, New Zealand, Nicaragua, Norway, Pakistan, Paraguay, Peru, Philippines, Poland, Portugal, Romanian People’s Republic, Spain, Sweden, Switzerland, Syria, Turkey, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Kingdom, United States of America, Uruguay, Venezuela and Federal People’s Republic of Yugoslavia. Final Record, 1949, II B, op. cit., pp. 528, 533–534 and 537–538.

\textsuperscript{90} By way of comparison, in 1949 the UN had 58 Member States.
The new Geneva Conventions of 1949

What were the main innovations introduced by the 1949 Conventions into international humanitarian law and what were the main problems encountered during the Diplomatic Conference?91

Before answering these questions, it is important to mention two issues of a general nature that the ICRC came up against as soon as the preparatory work got under way.

The first concerned a matter of method or legal expediency: would it be better to draw up very detailed rules, covering all possible eventualities, or establish conventions containing the essential principles, in which case the details would be stipulated in special agreements concluded between the parties to the conflict? The ICRC was in favour of the second solution. It preferred simple conventions, fearing that excessively detailed provisions would prove difficult to apply. However, it was the first option that won the day, as government delegates were keen to include provisions on the particular evils suffered by their respective countries during the Second World War in order to prevent them from ever occurring again. The ICRC attempted to steer a middle course, introducing general and indefeasible principles relating to humane treatment and respect for the rights of protected persons and their inalienability at the beginning of the Conventions and annexing model agreements and draft regulations.92

The second question was whether it would be best to have one convention for each category of people to be protected or weld them into one composite convention for the protection of victims of war, with separate sections for the different categories. The proposal for a composite convention was eventually abandoned at the 17th International Conference on account of the complexity of the problems it would


It is, however, clear that the four Geneva Conventions belong to a homogenous group, a fact borne out by the articles common to all four Conventions.

**Articles common to the four Geneva Conventions**

In addition to the provisions enshrining general principles relating to humane treatment and the inviolable rights of protected persons, the common articles, grouped together at the beginning and end of each Convention, are chiefly concerned with enforcement, the terms and conditions of application and implementing measures, such as the monitoring and suppression of violations. Some of these provisions warrant closer examination.

**The scope of application of the Conventions**

In the absence of any other indications, it was understood that the Conventions of 1929 were intended for use in wartime. The Conventions of 1949, on the other hand, specify the situations that call for their application.

Common Article 2, which refers to international armed conflicts, stipulates that the Conventions apply to all conflicts between States “even if the state of war is not recognized by one of them”. This means that the application of the Conventions is no longer dependent on formal recognition of a state of war, that is to say, a legal characterization of the situation, but on the actual existence of armed conflict – a *de facto* situation. The Conventions also apply “to all cases of partial or total occupation of the territory of a High Contracting Party, even if the said occupation meets with no armed resistance”. During the Second World War, many victims were denied protection under the Prisoners of War Convention, because the detaining power claimed that there was no war or did not recognize the adversary as a State, rendering the Conventions inapplicable.

**Common Article 3**

However, the greatest advance was the adoption of common Article 3. It has been described as a “convention in miniature”, requiring the parties to a non-international conflict to observe a minimum of human rights.

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94 An example of this is the Sino-Japanese War; in 1937, both countries denied the existence of a state of war.
95 This was the case of countries invaded and occupied, even annexed, by Germany without a conflict taking place, before and after the outbreak of the Second World War.
96 One such case is Poland; the western part of the country was incorporated into the “Greater German Reich” in October 1940, and its government in exile in London was not recognized by Germany.
Understandably, this question gave rise to one of the lengthiest and most complex debates at the Diplomatic Conference, as it was seen as an intrusion into State sovereignty. Some States taking part in the Conference were averse to the idea, because they themselves were facing civil war in their own territory or in their colonies at that time.

In its first drafts, the ICRC had proposed that each of the parties to the conflict should be bound to implement the provisions of the Conventions in all cases of armed conflict not of an international character. At the 17th International Conference, this proposal was approved but with the addition, in the Prisoners of War Convention and the Civilians Convention, of the condition that a party to the conflict would only be bound to comply if the adverse party did and the omission of a definition of civil war.

It is important to note, however, that, during the preparatory meetings, the term “civil war” was used in the strictest sense and was not meant to include internal disturbances and tensions. The question had been raised at the 17th International Conference by the representative of the World Jewish Congress, Gerhart Riegner. Referring to the events leading up to the Second World War in Germany, he expressed the view that the future Geneva Conventions should, in principle, apply in “cases of emergency caused by violence or disturbances aimed at national, racial or religious groups” or that a new international treaty should be established to cover such situations. These proposals were not incorporated for fear of weakening the draft provision on civil war by making it too precise or even of jeopardizing the Conventions’ chances of adoption by extending their application to sensitive and not easily definable situations.

From the very outset of the Diplomatic Conference, the question of what is meant by “armed conflict not of an international character” was raised. A significant number of delegations objected, if not to any and every provision concerning civil war, at any rate to too broad an extension of the scope of application of the Conventions. They feared that it would mean giving their enemies, who might be no more than a handful of rebels or common brigands, the status of belligerents and possibly even a certain degree of legal recognition.

The advocates of the Stockholm draft, on the other hand, regarded the proposals as an act of courage. They argued that it did not seem right to refer to the activities of rebels who complied with humanitarian principles as terrorism, anarchy or disorder.

A whole series of proposals put forward different conditions that would have to be met by one or other of the parties to the conflict for the Conventions to be


99 The 17th International Conference had, however, adopted a resolution on the issue of political detainees, independently of proposals relating to non-international armed conflicts. See also p. 82 above and Jacques Moreillon, Le Comité international de la Croix-Rouge et la protection des détenus politiques, Institut Henry-Dunant/Éditions de L’Age d’Homme, Geneva/Lausanne, 1973, pp. 103–112.
applicable, with a view to limiting the cases in which they would apply. However, the
many and widely varying opinions meant that it was impossible to establish a practic-
cable solution.

The credit for extricating the Conference from this impasse must go to the French
delegation. It suggested making just the principles established in the Conventions,
rather than the Conventions in their entirety, applicable in all cases of non-internation-
al conflict.

The resulting text, as it appears in Article 3 common to the four Geneva Conventions
of 1949, provides that:

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

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

(a) violence to life and person, in particular murder of all kinds, mutilation, cruel treat-
ment and torture;
(b) taking of hostages;
(c) outrages upon personal dignity, in particular humiliating and degrading treatment;
(d) the passing of sentences and the carrying out of executions without previous judg-
ment pronounced by a regularly constituted court, affording all the judicial guaran-
tees which are recognized as indispensable by civilized peoples.

(2) The wounded and sick shall be collected and cared for.

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

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

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

Without this last paragraph, it is unlikely that Article 3 would ever have been accepted.

This text is very different from the original draft produced by the ICRC, which
provided for the full application of the Conventions in such cases. However, it estab-
lishes a much wider scope of application, as Article 3 applies to all non-international
armed conflicts. Furthermore, the right of the ICRC to offer its services in such situ-
ations is recognized for the first time, even though the parties to the conflict are not
obliged to accept the offer. The ICRC, aware that its draft had no chance of being
accepted by the governments and that it had to fall back on a middle-ground solution,
considered that the wording finally adopted was the best of the various drafts prepared during the Conference.\textsuperscript{100}

The appearance of an article of this kind in an international convention was, at that time, an important innovation,\textsuperscript{101} although it was in line with the course charted by the Universal Declaration of Human Rights adopted by the United Nations on 10 December 1948 and the modern trend of international law towards recognizing that the question of observing fundamental human rights was no longer one of exclusive domestic jurisdiction exercised by the State.\textsuperscript{102}

\textit{Supervisory measures}

With regard to monitoring the application of the Geneva Conventions, the 1929 Prisoners of War Convention referred to the possibility of collaboration between protecting powers (Article 86). The war had clearly shown the value of this provision, but it had also revealed important gaps: first, there was no rule in the Conventions authorizing protecting powers to act on behalf of enemy civilians or civilians in occupied territory and, second, there were many prisoners of war who had not had a protecting power to defend their interests during the Second World War. For this system to work, there must be a recognized government. Germany’s refusal to recognize the existence of numerous governments in exile and the absence of a German government after the country surrendered deprived a large number of victims of a protecting power. The ICRC therefore considered it to be of utmost importance to extend the supervision exercised by protecting powers to all the Geneva Conventions and establish arrangements for providing a substitute for protecting powers unable to perform the required duties, so that victims were not left unprotected.

A new provision was introduced in the four Geneva Conventions concerning the role of protecting powers in supervising their application (Article 8/8/8/9).\textsuperscript{103} It stipulates that if protected persons do not or no longer benefit from the activities of a protecting power, then the detaining power is required to request either a neutral State or an organization offering guarantees of complete impartiality to perform the duties usually carried out by a protecting power. If protection cannot be arranged in this way, the detaining power must ask a humanitarian organization, such as the ICRC, to perform the humanitarian duties assigned to protecting powers or accept an offer made by such an organization (Article 10/10/10/11). It was thought that States

\textsuperscript{100} Commentary, op. cit., Vol. IV, pp. 33–34.
\textsuperscript{101} See Gerald I.A.D. Draper, op. cit., p. 102. He does not hesitate to qualify article 3 as “revolutionary” in that the High Contracting Parties, that is, the States, recognize in advance the legal status of insurgent groups, not yet in existence, opposed in an armed conflict to the \textit{de jure} government. See also Frédéric Siordet, op. cit., p. 212.
\textsuperscript{102} Joyce A.C. Gutteridge, op. cit., p. 301.
\textsuperscript{103} The articles are listed in the order in which the Geneva Conventions are numbered: First, Second, Third and Fourth Geneva Conventions.
would more willingly accept a substitute for the protecting power if more organizations were qualified to act in this capacity.\textsuperscript{104}

\textit{Suppression of violations}

The events of the Second World War had convinced the ICRC that the new Conventions should include a separate chapter on the suppression of violations.

The Wounded and Sick Convention of 1929 contained a provision stipulating that the High Contracting Parties “shall also propose to their legislatures (...) the necessary measures for the repression in time of war of any act contrary to the provisions of the present Convention” (Article 29). However, this provision remained a dead letter, as the majority of States failed to enact the required legislation. The 1929 Prisoners of War Convention contained no such provision and had been breached on numerous occasions in the course of the Second World War.

As mentioned above, acting on Resolution XXIII and XVII adopted at the International Conference, the ICRC had called a meeting of international experts in December 1948 in Geneva to examine this matter further. Its work resulted in the preparation of four new draft articles to be incorporated into each of the Conventions.\textsuperscript{105}

At the Diplomatic Conference, the United States delegation, supported by several others, objected to the adoption of the ICRC’s latest proposals as a basis for discussion. They had not been received by the governments until shortly before the Conference opened, and these delegations argued that they did not have instructions from their respective governments on this matter. The proposals were then submitted by the Netherlands delegation as its own and in this way officially brought before the Diplomatic Conference.\textsuperscript{106}

The lengthy deliberations on this question resulted in the adoption of an article common to the four Geneva Conventions of 1949 (Article 49/50/129/146), which reinforces the obligation of signatory States to incorporate the provisions of the Conventions into their domestic legislation. It stipulates that States parties must “enact any legislation necessary to provide effective penal sanctions for persons committing, or ordering to be committed, any of the grave breaches” of the Conventions, which it goes on to list. It also provides that each High Contracting Party “shall be under the obligation to search for persons alleged to have committed, or to have ordered to be committed, such grave breaches, and shall bring such persons, regardless of their nationality, before its own courts”. States can also “in accordance with the provisions

\textsuperscript{104} However, this assumption proved to be a fallacy, as the system of protecting powers and their substitutes has rarely been used. This question would be revisited during the preparation of Protocol I of 1977 additional to the Geneva Conventions of 1949. On this subject, see François Bugnion, \textit{The International Committee of the Red Cross and the Protection of War Victims}, op. cit., pp. 889–902.

\textsuperscript{105} These four articles were presented in the booklet \textit{Remarks and Proposals submitted by the International Committee of the Red Cross}, prepared for the Diplomatic Conference.

\textsuperscript{106} Minutes of the meetings of the Presidential Council held on 5 May and 23 June 1949 – ICRC Archives, A PV.
of its own legislation” hand such persons over to another High Contracting Party wishing to bring them to justice.

Procedural guarantees are also established for those accused of violations.

The ICRC draft contained innovations that went further, qualifying serious violations as “war crimes” and providing for them to be brought before an international court, yet to be created and whose jurisdiction would be recognized by the High Contracting Parties. However, a number of delegations objected, arguing that the Diplomatic Conference had no mandate to draft rules of international criminal law or interfere in the work entrusted to the United Nations International Law Commission in this regard.

The new system put in place, providing for the universality of jurisdiction in the case of grave breaches did, nonetheless, constitute real progress, even though it leaves the punishment of such breaches up to national jurisdictions, and extradition can be restricted by the domestic laws of the detaining country. Nevertheless, if extradition does not take place, the detaining State must bring the accused before its own courts.

**The First and Second Geneva Conventions:**
**the wounded, sick and shipwrecked**

**The First Geneva Convention**

The *Geneva Convention for the Amelioration of the Condition of the Wounded in Armies in the Field* of 22 August 1864 enshrines the broad principle that members of the armed forces who are wounded or sick must be respected and cared for without

107 The first serious proposal to create a permanent international criminal court was made by Gustave Moynier, one of the founders of the ICRC and its president from 1864 to 1910. See also Christopher Keith Hall, “The first proposal for a permanent international criminal court”, *IRRC*, No. 322, March 1998, pp. 57–74. The Statute of the International Criminal Court was adopted on 17 July 1998 by the Diplomatic Conference held in Rome. The ICRC took an active part in the Conference, proposing a list of war crimes divided into three parts – grave breaches of the four Geneva Conventions, other serious violations of international humanitarian law and serious violations committed in non-international armed conflicts – which it considered should come under the jurisdiction of the court. The Conference took these proposals into account, in particular, the inclusion of war crimes committed in internal conflicts.

108 Hence the use of the term “grave breaches” rather than “war crimes” in the Geneva Conventions of 1949. Joyce A.C. Gutteridge, *op. cit.*, pp. 304 ff. *Final Record 1949, II B*, 10th and 11th meeting of the Joint Committee, pp. 31–35; 29th meeting of the Special Committee of the Joint Committee, pp. 85–86; Fourth Report drawn up by the Special Committee of the Joint Committee, pp. 114–118; Report drawn up by the Joint Committee and presented to the Plenary Assembly, pp. 132–133.

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distinction of nationality. Ambulances, military hospitals and medical personnel are protected to this end. The distinctive emblem of the red cross on a white background is the visible sign of this immunity.

The original convention, revised in 1906 and 1929, underwent a third revision in 1949. This did not involve a complete reworking of the text. Apart from the inclusion of the articles common to all four Conventions, the First Geneva Convention of 1949 maintained the same basic rules, which were clarified and adapted to developments in warfare.

The main change was to the particularly favourable status of medical personnel. Under the 1929 Convention, medical and religious personnel who fell into the hands of the enemy were not to be treated as prisoners of war (Article 9). They could not be retained in captivity and had to be returned to the party to the conflict to which they belonged, in the absence of an agreement to the contrary (Article 12).

The Second World War had shown the difficulty of implementing these provisions. In view of the large numbers of prisoners and the length of their captivity, it made sense to provide for the retention of a part of captured medical and religious personnel, so that the prisoners could be cared for and their spiritual needs met by personnel from their own country.

During the Conference of Experts, two different opinions emerged. Some were of the view that all captured medical personnel should be treated as prisoners of war, while others argued that their traditional immunity should be maintained and that they should only be retained as an exceptional measure.

With a view to settling the controversy, a compromise, not altogether unambiguous, was finally adopted by the Diplomatic Conference: Article 28 of the First Geneva Convention of 1949 provides that medical personnel and chaplains who fall into the hands of the enemy may only be retained “in so far as the state of health, the spiritual needs and the number of prisoners of war require”. It goes on to stipulate that they “shall not be deemed prisoners of war. Nevertheless they shall at least benefit by all the provisions” of the Third Geneva Convention relative to the Treatment of Prisoners of War. It also grants them other advantages to facilitate the performance of their medical and spiritual duties and provides that the parties to the conflict must “make arrangements for relieving where possible retained personnel, and shall settle the procedure of such relief”.

The protection of civilians who assist the wounded and sick was, on the other hand, reinforced in the 1949 revision.

Under the 1929 Convention, 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” (Article 5). The corresponding article of the revised convention (Article 18) adds that the “military authorities shall permit the inhabitants and relief societies, even in invaded or occupied areas, spontaneously to collect and care for wounded or sick of whatever nationality”. This provision is important, as it ensures that military parachutists and resistance fighters are not left
without care. During the Second World War, people were often encouraged to provide care in such cases but faced extremely serious penalties for doing so.

Very few references were made to the Red Cross as an aid organization in the previous text. The new texts filled this gap, providing both National Societies and the ICRC with a firmer basis for their action.

Other innovations include the possibility of creating, by agreement between the parties to the conflict, hospital zones and localities to protect wounded and sick soldiers, the personnel caring for them and those responsible for the administration of these zones from the effects of war (Article 23 and the Draft Agreement annexed to the Convention); the revision of the articles concerning medical aircraft, making the protection granted to them subject to more restrictive conditions, with a view to preventing the problems of misuse observed during the Second World War; and, lastly, the rights and duties of neutral countries in relation to their relief activities in the territory of the parties to the conflict and their treatment of protected persons (medical personnel and the sick and wounded) who find themselves in their territory.

The question of the emblem

Although the status quo was finally maintained, the general question of the unity and plurality of the emblems was nevertheless discussed at the Diplomatic Conference, when the draft articles of the First and Second Geneva Conventions concerning the distinctive sign were examined.

The rule on the unity of the sign established by the 1864 Convention and reaffirmed in the 1906 Convention had been officially broken by the Diplomatic Conference held in 1929,\(^{110}\) which accepted the use of the red crescent or the red lion and sun on a white background as a distinctive sign, instead of the red cross, by countries that were already using them (Article 19 of the Wounded and Sick Convention of 1929).

The possibility of returning to a single distinctive emblem, on the grounds that it ensured better protection, had been raised at the preparatory meetings. As no agreement had been reached on this matter, the wording of Article 19 had not been amended in the draft texts approved by the 17th International Conference.

At the Diplomatic Conference of 1949,\(^ {111}\) the delegation from Israel, which had only recently become an independent State, relaunched the debate by submitting an amendment proposing the recognition of a new sign, the red shield of David, used as the distinctive sign of the medical services of the Israeli armed forces and National

\(^{110}\) In 1876, Turkey, in the grip of the Eastern Crisis, had notified the Swiss Federal Council that its medical service would thereafter display a red crescent and not a red cross, because this sign was offensive to Muslim soldiers. Later, Iran would call for the red lion and sun to be recognized.

The Israeli representative expressed his willingness, however, to withdraw the request, if the exceptions that had already been accepted were abolished.

Other signs were put forward, for example, by the representative of the Netherlands, which were considered to be neutral and without any religious connotations by their proposers. Various alternative solutions were also proposed, notably by the ICRC and the delegation of India, endorsed by the delegation of Burma. The ICRC pointed out that the red cross was a sign that was intended to be international, neutral and without any religious significance, since the principle of the Red Cross was to assist those who suffered, irrespective of borders or faiths.

In a general statement made at a plenary meeting, ICRC President Paul Ruegger warned of the dangers of the proliferation of emblems: “If the present Conference were to adopt new symbols, it would open the way to other exceptions in the future. The progressive weakening of the symbol of aid to war victims would be a positive disaster, since the protection of human lives is here at stake”. He also emphasized the “advantages of the single symbol of the Red Cross if a return to the past were envisaged”, going as far as to advise against the adoption of an exceptional symbol with a geometric design. He voiced the fear that a multiplication of signs would not only diminish the universal value of the emblem, but also undermine the universal significance of the name “Red Cross”.

The Swiss delegation, for its part, based its argument on the effectiveness of the sign of the red cross: “The best sign will be that which has the greatest protective value. What we have to decide today is whether it would be in the interests of [victims] to abandon the Red Cross emblem or to weaken it by continual inroads on its character as a single and universal emblem (...) the advantages represented for all parties by the maintenance of a universally known sign with only those exceptions now recognized, far exceed those which any State might enjoy from the acceptance of a new emblem.”

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112 The proposed amendment read as follows: “Nevertheless in the case of countries which already use, as a distinctive sign, in place of the Red Cross, the Red Crescent or the Red Lion and Sun on a white ground, or also the Red Shield of David on a white ground, those emblems are recognized by the terms of the present Convention” (Final Record 1949, III, op. cit., Annex 42, p. 40).

113 He suggested replacing the red cross with a red heart, represented as a triangle with its apex pointing downward.


115 The draft resolution submitted by India recommended that the High Contracting Parties set up a body to examine the matter of the red cross and other emblems in use or proposed for use and to study the possibility of creating a new emblem, which would be a simple geometric shape with no religious, cultural or other meaning (Final Record 1949, II B, op. cit., p. 231).


It is this view that eventually prevailed. The Israeli request was rejected – once at the meeting of Committee I and then twice at a plenary meeting – as was the proposal put forward by the delegation of India, which was to examine the possibility of introducing a new sign with a geometric design. Given the reluctance of some countries to use the red cross, but nonetheless hopeful that one day a solution could be found to restore the unity of the emblem, the Diplomatic Conference maintained the arrangements in place. For fear of creating a precedent and making it even more difficult to achieve this unity, it decided not to accept any new symbols.

When the Israeli delegation signed the four Geneva Conventions on 8 December 1949, it entered a reservation to the First, Second and Fourth Conventions to the effect that, while respecting the inviolability of the distinctive signs provided for, it would use the red shield of David (Magen David Adom).119

The Second Geneva Convention

The Second Geneva Convention – conceived from its inception in The Hague in 1899 as an adaptation to naval warfare of the humanitarian principles already formulated for warfare on land – is obviously closely connected to the First Geneva Convention. It was revised in 1907 but not in 1929, so that a major overhaul was required in 1949.

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119 Final Record 1949, I, op. cit., p. 348. As a result, the ICRC was unable to formally recognize the Israeli National Society Magen David Adom, as it did not meet one of the requirements for National Society recognition, that is, the use of the name and emblem of the red cross or red crescent in accordance with the Geneva Conventions. The decision adopted at the 1949 Diplomatic Conference to maintain the status quo therefore entailed serious drawbacks, affecting the principle of unity and universality of the red cross. This question is discussed by François Bugnion in “The red cross and red crescent emblems”, IRRC, No. 272, September–October 1989, pp. 408–419. This is why the ICRC, seeking to restore universality, advocated in an article published by its president in 1992 a global and lasting solution to this question, consisting of the adoption of an additional emblem devoid of all national, political or religious connotations. The negotiations, in which the International Federation of Red Cross and Red Crescent Societies and the Standing Commission took part, were conducted internally, within the International Red Cross and Red Crescent Movement, to begin with, and later through a joint working group formed by representatives of the Movement and the States. These efforts led to Switzerland calling a Diplomatic Conference in December 2005, which adopted the Protocol of 8 December 2005 additional to the Geneva Conventions of 12 August 1949, and relating to the Adoption of an Additional Distinctive Emblem (Protocol III). This Protocol creates the red crystal as a distinctive emblem in addition to the red cross and the red crescent. On 22 June 2006, the 29th International Conference of the Red Cross amended the Statutes of the Movement to accord with Protocol III, paving the way for recognition of Magen David Adom. It also voted in favour of the simultaneous recognition of the Palestine Red Crescent Society. These two National Societies were recognized by the ICRC on the same day and were immediately admitted to the Federation. See also on this subject Cornelio Sommaruga, “Unity and plurality of the emblems”, IRRC, No. 289, July–August 1992, pp. 333–338; and François Bugnion, Red Cross, Red Crescent, Red Crystal, Geneva, ICRC, 2007.
It is significant that the majority of attacks on hospital ships in the Second World War seem to have been largely due to the lack of up-to-date marking methods, and war planes had not been in existence at the time of the previous revision in 1907. The Diplomatic Conference therefore undertook to improve marking methods.

It would take too long to examine the Convention in any detail here, as the text was expanded significantly to include 63 articles in total (compared with the 28 of Hague Convention X of 1907), just one less than the First Geneva Convention of 1949. For the first time, the Maritime Convention contains almost all the provisions established in the Convention for land warfare and closely follows it in its structure.

An important point to note is that the principle of the immunity of medical personnel from capture is maintained in the Second Convention, as they are considered an integral part of hospital ships.

In this regard, there are those who think the First Geneva Convention of 1949 retrograde from the standpoint of international humanitarian law, as it recognizes the principle of retaining medical personnel and does nothing to encourage the development of medical aviation. Others believe it would have been unrealistic to do otherwise. The Diplomatic Conference remained within what was viable, having no desire to maintain or introduce impracticable regulations.

The Third Geneva Convention: the treatment of prisoners of war

In the conflicts in which it was applicable, the 1929 Prisoners of War Convention provided effective protection to millions of people held captive during the Second World War. It nevertheless became apparent both to those who benefitted from it and to those responsible for applying it that it needed revision on a number of points.

One of the most important was defining the categories of people to which the Convention’s provisions apply, which needed to be clearly specified to clarify areas where doubts remained.

The 1929 Convention designated the persons protected by it by simply referring to the first three articles on the status of the party to the conflict in the Regulations

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121 Protocol I of 8 June 1977 additional to the Geneva Conventions of 1949 provided for the reinstatement of protected medical aircraft, thanks to highly technical modern marking methods and the use of helicopters to evacuate the wounded.


123 It should be noted that the USSR and Japan were not States parties to the 1929 Prisoners of War Convention, as they had not ratified it. As a result and in spite of attempts made by the ICRC to remedy the situation, it was not applied in the conflicts in Eastern Europe (hostilities between Poland and the Soviet Union in September 1939, the Winter War between the USSR and Finland from 1939 to 1940 and hostilities between the Axis powers and the Soviet Union from 1941 to 1945) and only partially in conflicts in the Far East.
annexed to Hague Convention IV of 1907. The 1949 Convention goes further, with the inclusion of Article 4, which specifically lists the categories of people protected by its provisions.

These categories include “partisans,” who had often been denied the status of belligerent during the war. The matter was solved by assimilating resistance movements to militias and volunteer corps not forming part of the armed forces of a party to the conflict, provided that they meet the four conditions listed in Article 1 of the Hague Regulations, namely: they are commanded by a person responsible for his subordinates; they have a fixed distinctive sign recognizable at a distance; they carry arms openly; and they comply with the laws of war. It is also recognized that such movements might be operating in occupied territory, which was an important innovation.

In light of the experience of the Second World War, the following new categories were also included: members of the armed forces who profess allegiance to a government or an authority not recognized by the detaining power; members of crews of the merchant marine and of civil aircraft who fall into the hands of the enemy; and demobilized combatants in occupied territory who are interned by the occupying power for belonging to the armed forces of the occupied country, in particular, when they have made an unsuccessful attempt to rejoin the armed forces to which they belong.

On the question of responsibility for prisoners of war transferred from one power to another, the 1929 Convention was silent, and difficulties were, in fact, encountered in this respect at the end of the Second World War. The 1949 Convention stipulates that the detaining power must not transfer prisoners to a power that is not a party to it and must first satisfy itself that the other power is willing and able to apply the Convention. If the transferee power fails to fulfil its obligations in this regard, the power that transferred the prisoners of war must take effective measures to remedy the situation or request the return of the transferred prisoners (Article 12).

Another important amendment concerns the release and repatriation of prisoners of war at the close of hostilities. The 1929 Convention provided that prisoners should be repatriated when the armistice was established, if possible, and in any event as soon as possible after the conclusion of peace (Article 75). For some powers, the Second World War ended without an armistice or peace treaty, and many prisoners of war saw their captivity prolonged. Article 118 of the 1949 Convention therefore establishes the principle that prisoners of war “shall be released and repatriated without

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125 These conditions, considered very restrictive (see Gerald I.A.D. Draper, op. cit., pp. 39–40), were relaxed with the adoption of Protocol I of 8 June 1977 additional to the Geneva Conventions of 1949.
126 See p. 135 above.
delay after the cessation of active hostilities”. It goes on to say that, in the absence of an armistice agreement, “each of the Detaining Powers shall itself establish and execute without delay a plan of repatriation”. This article imposes a unilateral obligation on the detaining power, intended to prevent repatriation operations from being delayed because no agreement has been signed between the parties to the conflict. At the Conference of Government Experts, the ICRC drew attention, albeit in vain, to the case of prisoners of war repatriated against their will and the case of prisoners who asked to be sent to a country other than their country of origin. Raised again at the Diplomatic Conference by the Austrian delegation, the question was eventually dismissed.

The Convention contains rules governing all aspects of the captivity of prisoners of war, often in excessive detail (places of internment, camps and security; accommodation and food; hygiene and medical attention; religious and intellectual activities and physical exercise; discipline; work; financial resources; relations with the exterior; relations between prisoners of war and the authorities; and penal and disciplinary sanctions).

An entirely new judicial provision was introduced in Article 85 of the 1949 Convention, according to which prisoners of war “prosecuted under the laws of the Detaining Power for acts committed prior to capture shall retain, even if convicted, the benefits of the present Convention”. A fierce controversy flared up over this rule at the Diplomatic Conference, as the Soviet Union and its allies were of the view that war criminals convicted of war crimes should be excluded from the benefits of the Convention and treated in the same way as the detaining power treated people convicted of criminal offences. The Western States, taking the opposite view to the one that they had adopted in the aftermath of the Second World War concerning the prisoners of war of the Axis countries accused of war crimes, supported the opinion that eventually prevailed, which was that even convicted prisoners of war should be entitled to the guarantees provided under the Convention which, they argued, constitute only a minimum standard to be found in the criminal legislation of the majority of civilized nations. It was also pointed out that domestic legislation clearly stipulates that anyone who breaks the law remains, without prejudice to the punishment imposed, under the benefit of such legislation.

128 See pp. 150 and 156 ff.
130 See pp. 136 ff. above.
The Fourth Geneva Convention: protection of civilians

With its 159 articles, the new Convention relative to the Protection of Civilian Persons is even longer than the Third Convention on prisoners of war, which has 143. It is divided into two main parts.

Protection of the civilian population from the effects of war

The first part is designed to afford general protection to civilians against the effects of war. Its provisions extend to the whole of the population of countries in conflict, that is, not only foreigners in the territory of a party to the conflict, but also the nationals of those countries and the population in occupied territories. They are concerned with specific matters, such as the creation of places of refuge, protection of the wounded and sick and of hospitals and hospital personnel, medical supplies, special measures concerning children and separated families.

The Fourth Geneva Convention, like the First, provides for the creation of hospital and safety zones (Article 14) – places where the wounded, the sick, the elderly, children, pregnant women and mothers with young children are safe from land and air attacks – and neutralized zones located in the actual areas where fighting is taking place (Article 15) – places providing shelter to the wounded and sick, whether they are combatants or not, and to civilians not taking part in the hostilities. However, these provisions are permissive and not mandatory, subject to agreement between the parties to the conflict. A draft agreement for hospital and safety zones is appended to the Convention for this purpose.

The Fourth Geneva Convention extends the most important provisions of the First Convention to civilians who are wounded or sick. Civilian hospitals, recognized as such by the government, are protected and entitled to display the distinctive emblem (Article 18). The people working in such hospitals are also protected and entitled to wear an armband (Article 20).

With a view to mitigating the hardships caused by blockades, the Convention provides that States parties must come to an agreement, in certain circumstances, to allow the free passage of medicines and medical equipment and supplies intended for the civilian population (Article 23). The Convention stipulates special measures for children and orphans (Article 24). It also establishes the right to exchange family news and provides that enquiries to reunite separated families must be facilitated (Articles 25 and 26).

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132 Article 15 bears the stamp of initiatives undertaken by the ICRC for the establishment of safety zones in the conflict in Palestine in 1948. See pp. 415 ff. below.
The status and treatment of protected persons

The second part forms the main body of the Fourth Geneva Convention. It covers two types of situation: foreigners who find themselves in the territory of a party to the conflict and the civilian population in occupied territory. As some principles apply to both groups, these provisions are divided into three sections: common provisions, provisions relating to foreigners in the territory of a party to the conflict and provisions concerning occupied territories. There are also two other sections concerning the treatment of internees and the Central Information Agency.

The common provisions establish that protected persons “are entitled, in all circumstances, to respect for their persons, their honour, their family rights, their religious convictions and practices, and their manners and customs. They shall at all times be humanely treated (...) without any adverse distinction based, in particular, on race, religion or political opinion” (Article 27). The final paragraph of this article contains a reservation, allowing parties to the conflict to take control and security measures as may be required by war. This reservation does not, however, give free reign to arbitrary governmental power and leaves intact the general prohibitions imposed by the humanitarian principles established in the Convention.\(^\text{133}\) It expressly prohibits coercion (Article 31), “any measure of such a character as to cause the physical suffering or extermination of protected persons”, torture and pseudo-medical experiments (Article 32), collective penalties, pillage and reprisals (Article 33) and hostage taking (Article 34).

People of foreign nationality in the territory of a party to the conflict,\(^\text{134}\) the category dealt with in the second section, have the right to leave the territory at the start of or during the conflict, unless their departure is contrary to the national interests of the State. Applications to leave the territory made by such persons must be decided in accordance with regularly established procedures, and anyone whose application is rejected is entitled to have the decision reconsidered by a court or board specifically appointed for this purpose (Article 35). The internment of protected persons or their placement in assigned residence can only be ordered if the security of the detaining power makes it absolutely necessary (Article 42); in such cases, the person is entitled to have the decision reconsidered by a special court or board (Article 43).

The third section, as mentioned above, concerns the population of occupied territories. It is designed to fill the gaps in the Regulations annexed to Hague Convention IV, which were highlighted by the German occupation of several European countries in


\(^{134}\) According to Article 4, persons protected by the Convention are those who “find themselves, in case of a conflict or occupation, in the hands of a Party to the conflict or Occupying Power of which they are not nationals (...) Nationals of a neutral State (...) and nationals of a co-belligerent State, shall not be regarded as protected persons while the State of which they are nationals has normal diplomatic representation in the State in whose hands they are.” This is therefore a definition that extends beyond the criterion of enemy nationality, which is, on the other hand, the criterion maintained for prisoners of war.
the Second World War. The main provisions are as follows: deportations from occupied territories are strictly prohibited; people may not be forcibly moved within the occupied territory, except on a temporary basis and for security reasons or imperative military necessity; it is prohibited for the occupying power to move part of its own population into the occupied territory (Article 49); and the destruction of real and personal property is prohibited (Article 53). This section also defines the rights and duties of the occupying power in the following areas: work (protected people cannot be forced to serve in the armed forces or do any work that would require them to take part in military operations), supplies, public health, criminal legislation (the criminal legislation of the occupied territory must remain in force unless it constitutes a threat to the security of the occupying power) and criminal procedure. With regard to this last point, it is provided that sentence may only be passed after a fair trial (Article 71); the death penalty may only be imposed for serious offences and when such offences were punishable by death under the law of the occupied territory before the occupation (Article 68); and a death sentence may only be carried out once a period of six months has elapsed (Article 75). Lastly, the occupying power may only subject protected persons to assigned residence or internment for imperative reasons of security and in accordance with a regular procedure (Article 78).

The fourth section contains a set of rules (Articles 79 to 135) on the treatment of protected civilians who have been interned for whatever reason, which closely follow those applicable to prisoners of war.

The fifth and last section provides for the creation of a Central Information Agency, which can be organized by the ICRC in the same way as the one set up for prisoners of war.

Contrary to the ICRC’s expectations, there was no discussion of the actual principle of the Civilians Convention at the Diplomatic Conference. Commission III was snowed under with draft amendments, resulting in a veritable display of humanitarian one-upmanship. At the same time, however, there emerged another trend towards toning down the obligations of States, replacing imperatives with less binding formulas.135

The final text of the Fourth Geneva Convention contains many more restrictions than the Stockholm draft. This is a result of the struggle to achieve a balance between the wishes of countries that had been occupied during the Second World War, which found it difficult to see the problems of occupied territory from any point of view other than that of the victims of occupation, and the wishes of countries that had not suffered occupation but had found themselves in the position of an occupying power at the end of the war, whose main concern was to protect the legitimate interests of the occupying power.136 Nevertheless, the Convention represents an important advance in international humanitarian law.

135 Minutes of the meeting of the Presidential Council held on 19 May 1949 – ICRC Archives, A PV.
136 Joyce A.C. Gutteridge, op. cit., p. 326.
The question of nuclear weapons

As the Civilians Convention was being debated, the Soviet delegation submitted a draft resolution to the Diplomatic Conference condemning the use of weapons of mass destruction, in particular nuclear weapons.

It read as follows: “The Conference decides that: (…) c) It is the duty of the Governments of all countries to obtain the immediate signature of a Convention relative to the prohibition of the atomic weapon as a means of mass extermination of the population.”

In his explanatory statement, the head of the Soviet delegation put forward the following argument:

Consideration of the Draft Convention for the Protection of Civilian Persons in Time of War is nearly at an end. (...) Its chief defect is that it does not contain sufficient safeguards for the protection of the civilian population against the most dangerous consequences of modern warfare. (...) It is obvious that a Conference which has assembled for the purpose of establishing the text of four Conventions for the protection of war victims, cannot be silent on such a matter.

However, the admissibility of the proposal was formally challenged in a letter addressed to the president of the Conference by the heads of delegation of fifteen countries. They believed that such a resolution was outside the scope of the Conference for the following reasons:

- The invitation issued by the Swiss government and the documents provided clearly indicated that the purpose of the Conference was to draw up new conventions for the protection of war victims along the lines of the four drafts approved by the 17th International Conference of the Red Cross. The Swiss government had at no time indicated that the Conference would address the question of which weapons of warfare were legitimate, and the four drafts were clearly concerned with war victims and not with weapons of war.

- Jurisdiction in this matter had been assumed by the highest international body, namely the United Nations.

The Soviet delegation unsuccessfully argued that the purpose of its proposal was not to have the Diplomatic Conference ban the use of weapons of mass destruction or to ask it to urge governments to immediately conclude a convention to this effect; it

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139 Australia, Brazil, Canada, Chile, China, Colombia, Cuba, France, Italy, New Zealand, Pakistan, United Kingdom, United States, Uruguay and Venezuela. Final Record 1949, III, op. cit., Annex 395, pp. 180–181.
140 See p. 261 below.
The ICRC and the new Conventions of 1949

Until 1929, the ICRC had no legal basis in positive international law. There is no reference to it either in the 1864 and 1906 Geneva Conventions or in the Hague Conventions. It appeared for the first time in the Convention relative to the Treatment of Prisoners of War of 1929, which granted it the right to propose to the States concerned the creation of a Central Agency of information regarding prisoners of war (Article 79) and, most importantly, recognized its right of initiative. Article 88 stipulated that the Convention’s provisions “do not constitute any obstacle to the humanitarian work which the International Red Cross Committee may perform for the protection of prisoners of war with the consent of the belligerents concerned”.

It was on the basis of these provisions that the ICRC carried out the majority of the activities it was engaged in during the Second World War, taking advantage of the freedom of action it had to offer its services in cases not expressly regulated by the Geneva Conventions and even in situations in which they were not, or not considered to be, applicable.\footnote{Jean Pictet, “The International Committee of the Red Cross in the new Geneva Conventions”, English Supplement, RICR, Vol. VII, No. 8, August 1954, pp. 163–178, in particular p. 164.}

\footnote{Minutes of the meeting of the Presidential Council held on 7 July 1949 and the working session of the Committee held on 11 August 1949 – ICRC Archives, A PV.}

\footnote{Final Record 1949, II B, op. cit., minutes of the 34th plenary meeting, pp. 495–509.}

\footnote{17th International Conference of the Red Cross, Stockholm, August 1948: Report, op. cit., p. 94.}
In light of this experience and aware that it was impossible to provide for all the specific situations that might arise in future wars, the ICRC attached great importance to maintaining its right of initiative, which guarantees its independence and the flexibility required to assist victims even in situations not provided for under the law. In its view, if there was one reference to the ICRC that should be retained, it was this one, and everything should be done to ensure that it was.\(^{145}\)

The Diplomatic Conference of 1949 reaffirmed the ICRC’s right of initiative and extended it to the four Geneva Conventions (Article 9/9/9/10). Moreover, this right is recognized in the situations covered by common Article 3, namely non-international armed conflicts. This is particularly important, as in this type of conflict assisting the adversary is often considered tantamount to aiding and abetting criminals or interfering in the internal affairs of the State in question.

The other two references to the ICRC, considered by it at the time to be “very desirable” and “desirable”, were its role in relation to Central Information Agencies and the role of representatives.\(^{146}\)

The Diplomatic Conference confirmed the ICRC’s mandate in relation to the Central Prisoners of War Information Agency, which was extended, and it was established that it should receive the facilities and means required to carry out its tasks more effectively (Articles 123 and 124 of the Third Geneva Convention). This mandate was also extended to the Central Information Agency for civilians, the creation of which is provided for in Article 140 of the Fourth Geneva Convention.

The role of ICRC delegates was now codified, which had not been the case previously, although they had made some 11,000 visits to camps during the Second World War. Under the provisions of Article 126 of the Third Geneva Convention and Article 143 of the Fourth Geneva Convention, which are concerned with supervision, ICRC delegates enjoy the same prerogatives as representatives of protecting powers. They are therefore authorized to go to any place where prisoners of war are being held and to interview the prisoners and the prisoners’ representatives without witnesses. They have complete freedom to choose the places they wish to visit, and the duration and frequency of the visits cannot be restricted. They have the same rights with regard to places where civilian protected persons are being held, including places of internment, detention and work. These articles therefore give the ICRC the right to full access to prisoners of war and civilian internees, and any State refusing the ICRC access is in violation of the Geneva Conventions.

The ICRC is also referred to in connection with the following matters, some of which have already been mentioned: delivery of relief to prisoners of war, civilian internees and the population in occupied territories; its role as a possible substitute for protecting powers; the right to use the sign of the red cross; the conciliation procedure


146 Ibid.
in the event of a dispute between the parties to the conflict over the application of the Conventions; the organization of hospital and safety zones; and the establishment of mixed medical commissions.

Some sixty articles – nearly half of which are to be found in the Fourth Geneva Convention – mention either the ICRC or the Central Information Agency. The role of the ICRC is therefore firmly established in international law.

Conclusion

The adoption of the four Geneva Conventions of 1949 by the international community, at a time when the world was split into two opposing blocs and the Cold War was in full swing, represented a great victory, with the context enhancing their significance.

There can be no doubt that moral outrage at the horrors of the Second World War contributed to the achievement. The desire to deal with the great evils the world had been made to suffer dominated the discussions of the Diplomatic Conference and provided the momentum to overcome differences of opinion.

The Geneva Conventions therefore stem from the same ideal as the Universal Declaration of Human Rights adopted eight months earlier by the United Nations and are in line with the trend it set towards recognition of the existence of certain fundamental human rights in wartime.

While there is no denying that the international climate was ripe for the adoption of the Geneva Conventions, it was down to the ICRC to take advantage of this propitious moment; success was by no means a foregone conclusion. This sentiment was expressed by Jean Pictet at a meeting of the ICRC’s Legal Commission: “We must not play a losing game. After the horrors of the war, we have public opinion on our side. The time is right to make advances in humanitarian law. We must therefore aim high and keep our fallback positions to ourselves.”

The ICRC played a pivotal role in the conclusion of the new Geneva Conventions, and the fact that the Diplomatic Conference was exceptionally well prepared was a crucial factor in its success.

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147 With the exception of the two defeated powers, which would soon sign them too: Japan in 1953, the Federal Republic of Germany in 1954 and the German Democratic Republic in 1956.

148 The Berlin blockade lasted from June 1948 to May 1949.


150 Minutes of the meeting of the Legal Commission held on 16 January 1948 – ICRC Archives, B CR 211.
Now universal, the Geneva Conventions of 1949 marked a decisive breakthrough in international humanitarian law: they extend the scope of application – both in terms of the persons and personnel protected and the types of conflict – and develop and strengthen it, adapting it to the new conditions of modern warfare. Although not free from defects and omissions, they fill the most serious gaps exposed by the Second World War and other conflicts before it.

Civilians, including foreigners in enemy territory and the population in occupied territories, are now protected under a specific convention, in a similar way to other victims of war. Described as a “miracle” by the then ICRC president, Paul Ruegger, the adoption of the Fourth Geneva Convention was indeed a historic event: “what the Red Cross had obtained from governments through the First Convention for the wounded and sick, who were at that time virtually the only victims of war, what in 1929 it [had] obtained for prisoners of war, respect for suffering and unarmed people, it [obtained] for all non-combatants, who are affected by modern warfare just as much as combatants, if not more so”.

Not only are the rights of combatants clarified and extended, the categories of people entitled to the status of prisoner of war are also broadened to include, in particular, the members of resistance movements and of armed forces who profess allegiance to a government that is not recognized by the detaining power.

Fundamental humanitarian principles, undermined by the atrocities committed during the Second World War, are reaffirmed and embodied in precise rules containing absolute prohibitions.

Supervision of the application of the Geneva Conventions is strengthened, with a system of protecting powers and their substitutes, as is the suppression of violations, with the establishment of a special regime based on State responsibility and the principle of universal jurisdiction.

One of the greatest advances was common Article 3, which extends the application of the fundamental humanitarian principles of the four Geneva Conventions of 1949 to non-international armed conflicts. The numerous internal conflicts occurring after their adoption bear out the importance of this article.

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151 As at August 2006, 194 States were party to the four Geneva Conventions of 1949, making them the only universally accepted international treaties.

152 However, even if it had already existed, the Fourth Geneva Convention would have only very partially covered the crimes committed by the Third Reich against German civilians, particularly German Jews, because, with the exception of Part II concerning the general protection of populations against certain consequences of war, the Convention does not apply to the nationals of a State party in relation to their own authorities, that is, political detainees.

153 Minutes of the meeting of the Legal Commission held on 11 November 1949 – ICRC Archives, B CR 211.

The 1949 Geneva Conventions contain numerous references to the activities carried out by the ICRC to help war victims, securing international recognition for the organization. Crucially important is the confirmation of its right of initiative, which allows it to offer its services in all conflict situations warranting humanitarian action. Furthermore, for the first time, obligations are imposed on States in this regard, including the obligation to give the ICRC access to prisoners of war and civilian internees and allow it to interview them freely and without witnesses.

It is to be regretted that the Diplomatic Conference of 1949 did not broach the issue of general protection for civilians from aerial bombardment, confining itself to establishing provisions for the optional establishment of hospital and safety zones for certain categories of people. According to François Bugnion, the “result was a paradox. Whereas the Diplomatic Conference had revised every detail of the rules protecting war victims, serious doubts remained as to whether the general principle of the civilian population’s immunity from attack was still valid. Yet much of humanitarian law, including the Fourth Convention just adopted by the Conference, rests on that very principle.”  

However, this was part of the Law of The Hague – which establishes the rights and duties of parties to a conflict in the conduct of hostilities and limits the choice of the methods and means used to inflict harm – and not of the Law of Geneva – which seeks to protect people placed hors de combat and those not taking part in the hostilities who have fallen into the hands of the enemy. 

The revision of the Hague Conventions was not on the agenda of the Diplomatic Conference, and it had no intention of venturing into this area. Indiscriminate bombardments of the civilian population by the Axis powers and the Allies alike were far too recent for the participants to contemplate banning them.

The Diplomatic Conference was, in fact, reproached for having “prepared for the last war”, in other words, for having drafted conventions that were much too pre-occupied with the Second World War and not concerned enough with anticipating the new forms of conflict that were soon to emerge, in particular, the wars of national liberation and guerrilla warfare that accompanied the process of decolonization.

These two questions were at the top of the agenda when, some twenty years later, the ICRC embarked on a new stage in the development of international humanitarian law, which would result in the adoption of the two Protocols of 8 June 1977 additional

156 This distinction between the two branches of international humanitarian law lost its significance with the adoption of the two Protocols of 8 June 1977 additional to the Geneva Conventions, which are concerned with matters relating to both the Law of The Hague and the Law of Geneva.
157 With the exception of Hague Convention X of 1907 for the adaptation of maritime warfare to the principles of the Geneva Convention, the purpose of which, as its name indicates, is a matter of the Law of Geneva.
to the Geneva Conventions of 1949.\textsuperscript{159} They confirm general immunity for the civilian population, with a prohibition on indiscriminate attacks, including aerial bombardment. Additional Protocol I equates wars of national liberation to international armed conflicts, and common Article 3 was further developed by Protocol II.

This said, the Diplomatic Conference of 1949 largely fulfilled the goals it set out to achieve. The Four Geneva Conventions are clearly the outcome of the effort to strike a balance between humanitarian requirements, on the one hand, and military and political necessity, on the other. This tension is, in the words of Jean Pictet, “the very essence of the law of armed conflicts.”\textsuperscript{160} Most authors of the time agree that in 1949 humanity won the day. Ultimately, however, the real effectiveness of the Geneva Conventions will always depend, above all, on the willingness of the parties to the conflict to apply them.

\textsuperscript{159} Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), 8 June 1977; and Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), 8 June 1977. On the origins of this new stage of development of international humanitarian law, see Jean Pictet, “The need to restore the laws and customs relating to armed conflicts, IRRC, No. 102, September 1969, pp. 459–483, in particular pp. 472 ff.

\textsuperscript{160} Jean Pictet, “The formation of international humanitarian law”, IRRC, op. cit., p. 16.
CHAPTER 7
Nuclear weapons and the protection of the civilian population from the effects of war

The general principle that the civilian population is entitled to immunity from the effects of war, based above all on customary law, was codified for the first time in international treaties at the peace conferences held in The Hague in 1899 and 1907.1

The ICRC’s concern with this question dates back to the First World War, which had seen the appearance of new weapons, such as asphyxiating gases and bomber aircraft. As early as 1920, the organization had submitted a proposal to the Assembly of the League of Nations concerning a series of measures aimed at limiting aerial warfare in order to spare the civilian population to the extent possible and outlawing the use of asphyxiating gases. Its work contributed directly to the adoption of the Protocol for the Prohibition of the Use of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare in Geneva on 17 June 1925, under the auspices of the League of Nations. The ICRC had also centralized all the documentation relating to the protection of the civilian population from aerial chemical warfare and played a role in promoting passive air defence.2

In the period from 1931 to 1938, the ICRC conducted a series of expert consultations. In 1932, it submitted an appeal to the Conference for the Reduction and Limitation of Armaments, held under the aegis of the League of Nations, for a “prohibition, pure and simple, of aerial bombardment and of chemical and bacteriological warfare”, presenting the documentation it had compiled on this subject for consideration. When this initiative was unsuccessful, it decided to focus its efforts on developing the idea of safety localities and zones.3

2 “Passive defence” was the term used to refer to what is now known as “civil defence”.
During the Second World War, the ICRC had repeatedly called on the powers involved to confine bombardments to military targets and to spare civilians, in accordance with the principle of immunity for the civilian population. It had also advocated the creation of safety localities and zones on several occasions, but all its efforts proved fruitless. This principle of immunity was utterly violated by the main parties to the conflict, and the ICRC’s efforts failed to prevent the wholesale bombing of cities, the use of unmanned aircraft, V-1 flying bombs, V-2 rockets and, finally, the dropping of atomic bombs on Hiroshima and Nagasaki on 6 and 9 August 1945. Significantly, the Nuremberg and Tokyo trials held after the war to prosecute major war criminals from the Axis countries did not hand down any convictions for indiscriminate aerial bombardment.

Nuclear weapons

**From the Second World War to the Geneva Conventions of 1949**

In the wake of the bombing of Hiroshima and Nagasaki, the ICRC felt obliged to underline, in Circular No. 370 of 5 September 1945 addressed to National Societies on the end of hostilities and the future tasks of the Red Cross, the extreme gravity of the situation in relation to nuclear weapons and raise concerns about the new methods and means of warfare that had been developed.

The text of this circular was endorsed at the Preliminary Conference of National Red Cross Societies called by the ICRC in 1946. It also adopted a resolution in which it recommended “the prohibition of the use of all means of chemical and bacteriological warfare, as well as the employment of atomic energy for purposes of war”.

Encouraged by this, the ICRC submitted a report on the humanization of war to the 17th International Conference of the Red Cross held in Stockholm in 1948. In this report, it proposed reinforcing the resolution and extending it to include other non-directed weapons. The fact that, during the Second World War, the belligerents had respected the prohibition established in the 1925 Geneva Protocol on the use of asphyxiating, poisonous and similar gases and bacteriological warfare bolstered

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6 See p. 212 above.

the ICRC’s hope that an outright ban on non-directed weapons was not merely a utopian goal.\(^8\) The 17th International Conference adopted Resolution XXIV, which read as follows:

The XVIIth International Red Cross Conference,

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

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

c earnestly requests the Powers solemnly to undertake to prohibit absolutely all recourse to such weapons and to the use of atomic energy or any similar force for purposes of warfare.\(^9\)

The question was raised again at the Diplomatic Conference held in 1949 but only discussed marginally during the debate on the Fourth Geneva Convention concerning civilians. On the basis of the above-mentioned resolution and other arguments, the Soviet delegation sought to have a draft resolution on banning nuclear weapons submitted to the Diplomatic Conference for consideration, but to no avail.\(^10\)

While in its public statements the ICRC appeared to adopt a somewhat ingenious attitude, it was nonetheless aware that if the belligerents had not resorted to gas warfare during the Second World War, it was probably because, for the most part, they had not needed to.\(^11\) However, Jean Pictet, the then director-delegate, was of the opinion that scepticism should not be allowed to undermine the ICRC’s efforts, taking into account that, up to the Second World War, the effects of such weapons were only suffered by armies. Now entire populations were indiscriminately attacked and annihilated, with no regard for the distinction between civilians and combatants.

Shortly after the 1949 Diplomatic Conference – when the Western world learned, on 23 September 1949, that the Soviet Union had carried out its first atomic bomb test a few weeks before – the director-delegate proposed two immediate measures: the compilation of comprehensive technical and legal documentation on new weapons and the publication of articles on protecting the civilian population from aerial bombardment in the *International Review of the Red Cross*.\(^12\) He also planned

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\(^8\) ICRC report on the humanization of war, 17th International Conference of the Red Cross, Stockholm, August 1948 (Document 10) – ICRC Library.


\(^10\) See pp. 248 ff. above.

\(^11\) Minutes of the plenary meeting of the Legal Commission held on 20 October 1949.

\(^12\) A section on this subject was included in the *IRRC* from the end of 1950.
to send out a circular letter to National Red Cross Societies and governments condemning the use of non-directed weapons and proposing a conference of experts on this subject.\textsuperscript{13}

During the discussions held within the ICRC on this subject, several members of the organization pointed out that, at the Diplomatic Conference, governments from both blocs were opposed to the idea of banning nuclear weapons outright. It would therefore be difficult to take a public stand on this issue without one of the groups accusing the ICRC of taking sides, which could jeopardize the signing of the new Geneva Conventions of 1949.\textsuperscript{14} Paul Ruegger, president of the ICRC, remarked that there were those in the international community who considered that the organization was better placed than others to find a solution to this issue. The success of the recent Diplomatic Conference, which had resulted in the establishment of the four Geneva Conventions, although they had not yet been signed, was clear proof that the Red Cross, guided by its humanitarian ideals and constant concern for neutrality, was able to achieve results where other organizations would have failed. In the end, the ICRC decided to put this matter on hold until after 8 December 1949, when the official signing ceremony for the new Conventions was to take place.\textsuperscript{15}

Once most of the States that had attended the Diplomatic Conference – including the Big Five – had signed the Conventions, the Legal Commission decided to draft the planned circular letter, considered all the more necessary because the talks being held within the United Nations Atomic Energy Commission were at a deadlock. The ICRC drafted two versions of the circular addressed to the governments. The first called on the governments to “declare as of now, as a logical complement to the [Geneva] Conventions, a ban on the use of atomic weapons and non-directed missiles”, while the second asked them to “continue their efforts to reach an agreement on banning such weapons”. Both ended with the ICRC offering its services to contribute, at the humanitarian level, to solving the problem.\textsuperscript{16}

Although Max Huber, honorary president of the ICRC at that time, and Jean Pictet did not agree, a majority favoured the second version, considering that the ICRC should not take a stand on the question of a nuclear weapons ban without taking into account the talks under way among the States within the United Nations.\textsuperscript{17}

In June 1946, US delegate Bernard Baruch had submitted to the Atomic Energy Commission a plan proposing the creation of an international body that would control

\textsuperscript{13} Extract from the minutes of the plenary meeting of the Legal Commission held on 20 October 1949.

\textsuperscript{14} The 16 delegations that signed the Geneva Conventions at the close of the Diplomatic Conference on 12 August 1949 did not include any of the major powers, except the United States, which only signed the first three Conventions and not the Fourth Convention on the protection of civilians.

\textsuperscript{15} Minutes of the meeting of the Legal Commission held on 11 November 1949 and the working session of the Committee held on 17 November 1949 – ICRC Archives, A PV.

\textsuperscript{16} Minutes of the meetings of the Legal Commission held on 18 January and 2 March 1950 and minutes of the plenary meeting of the ICRC held on 16 March 1950 – ICRC Archives, A PV.

\textsuperscript{17} Minutes of the plenary meeting of the ICRC held on 16 March 1950.
nuclear power, a condition imposed by the United States before it would consider banning the atomic bomb. This plan provided for reprisal measures, including nuclear reprisals, to be taken against those who violated the ban it would establish on the use of atomic energy for destructive purposes. It also envisaged abolishing the right of the Big Five to veto Security Council decisions on enforcement sanctions. The Soviet Union, which had yet to conduct any nuclear testing at that point, did not accept the plan and made a counter-proposal, which sought to establish an immediate ban on nuclear weapons and prevent any weakening of the Security Council. The discussions reached a deadlock, with the two powers and their allies becoming entrenched in their respective positions.

**ICRC appeal concerning atomic weapons and non-directed missiles**

In a letter dated 5 April 1950 and signed by both President Paul Ruegger and Vice-President Léopold Boissier, the ICRC made a solemn appeal to the States party to the Geneva Conventions concerning atomic weapons and non-directed missiles. The ICRC highlighted the particularly devastating nature of nuclear weapons, which it said would plunge humanity into a state of constant fear. It stressed that it had no political intentions and that its initiative was based on the need to protect people against mass destruction, a concern closely bound up with the principle that gave rise to the Red Cross, which is that “the individual who takes no part in the fighting, or who is put hors de combat, must be respected and protected”. After explaining the steps it had taken so far in relation to the development of methods and means of warfare, it underlined the indiscriminate nature of nuclear weapons, which made it impossible to spare hospitals, prisoner-of-war camps and the civilian population, and stressed the suffering that they inflicted on victims. The closing paragraphs read as follows:

The International Committee of the Red Cross, which watches particularly over the Conventions that protect the victims of war, must declare that the foundations on which its mission is based will disappear, if deliberate attack on persons whose right to protection is unchallenged is once countenanced. The International Committee of the Red Cross hereby requests the Governments signatory to the 1949 Geneva Conventions, to take, as a logical complement to the said Conventions – and to the Geneva Protocol of 1925 – all steps to reach an agreement on the prohibition of atomic weapons, and in a general way, of all non-directed missiles. The International Committee, once again, must keep itself apart from all political and military considerations. But if, in a strictly humanitarian capacity, it can aid in solving

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the problem, it is prepared, in accordance with the principles of the Red Cross, to devote itself to this task.\textsuperscript{19}

In total, 43 States responded to the ICRC’s appeal between April 1950 and September 1951.\textsuperscript{20} They all declared that, in principle, they shared the ICRC’s concerns and agreed with the goal pursued, which was to ban nuclear weapons. However, the United States, the United Kingdom and the other major Western powers preferred the plan prepared by the United Nations for this purpose, which provided for international control of atomic energy. This plan had been approved by all the Member States of the United Nations, except the Soviet Union and its satellite States. They pointed out that the body with a mandate to address these matters was the UN, specifically the Atomic Energy Commission.\textsuperscript{21}

The only Soviet-bloc country to reply to the ICRC’s appeal was Poland, which stated that its government had a foreign policy firmly orientated towards peace and had always supported efforts to ban nuclear weapons and all weapons of mass destruction, as it had demonstrated in the UN and through its solidarity with the efforts of the World Congress of Partisans of Peace and the World Peace Council in this regard.\textsuperscript{22} In this spirit, the Polish government expressed “its staunch endorsement of the ICRC’s appeal”.\textsuperscript{23}

The question of the lack of a reply from the Soviet government – which had made the banning of nuclear weapons its rallying cry in its drive for peace – was raised by ICRC President Paul Ruegger with the Soviet Alliance of Red Cross and Red Crescent Societies during his visit to Moscow in November 1950.\textsuperscript{24} He revealed the ICRC’s intention to publish the governments’ replies to its appeal, pointing out that the document would be incomplete without the Soviet government’s reply.\textsuperscript{25}

\textsuperscript{19} Ibid.

\textsuperscript{20} The States that responded were the following, listed in the chronological order in which their replies were received by the ICRC: Ireland, Spain, Switzerland, Vatican, Liechtenstein, El Salvador, Guatemala, Costa Rica, Dominican Republic, Yemen, United Kingdom, Venezuela, Norway, Haiti, Peru, United States, Ethiopia, Bolivia, Canada, Nicaragua, Belgium, Colombia, Australia, Italy, Burma, Chile, Sweden, Denmark, Austria, Philippines, Israel, Afghanistan, Thailand, India, Union of South Africa, France, New Zealand, Greece, Egypt, Turkey, Syria, Poland and Portugal.

\textsuperscript{21} ICRC appeal of 5 April 1950 on atomic weapons and non-directed missiles – replies from governments, \textit{op. cit.}

\textsuperscript{22} The ICRC’s appeal was preceded by the Stockholm Appeal, which sought to outlaw the atomic bomb, launched in March 1950 by the Permanent Committee of the World Congress of Partisans of Peace. See Pierre Du Bois, “Guerre froide, propagande et culture (1945–1953)”, \textit{Relations internationales}, No. 115, Autumn 2003, pp. 437–454, in particular p. 440. This appeal reveals the Communists’ renewed fear of a nuclear war, a fear shared by both the East and West.

\textsuperscript{23} ICRC appeal of 5 April 1950 on atomic weapons and non-directed missiles – replies from governments, \textit{op. cit.}

\textsuperscript{24} See Introduction, p. 29.

\textsuperscript{25} Minutes of the plenary meeting of the ICRC held on 21 November 1950 and the appended document; minutes of the meeting of the Legal Commission held on 6 December 1950 – ICRC Archives, A PV.
The ICRC began publishing the replies in the *International Review of the Red Cross* in instalments in early 1951, giving countries that had not yet replied the chance to do so.\[^{26}\]

It is worth noting that their publication was delayed by the outbreak of the Korean War in June 1950. There were fears that this new conflagration could lead to a third world war and the use of nuclear weapons. The ICRC had determined that if a war broke out, it would have to stop playing a "censuring" role, because it might be accused of interfering in political affairs and no longer be perceived as a neutral intermediary. Its main task would then be to assist the victims. It therefore seemed unwise to publish the replies to its appeal at that point in time. However, these fears soon faded.\[^{27}\]

The matter of the Soviet government’s failure to reply was broached again by the president of the ICRC at the end of 1951, when representatives of the Alliance travelled to Geneva for a meeting of the League of Red Cross Societies. The representatives observed that the Soviet stance was well known, as it had been voiced on many occasions in the United Nations,\[^{28}\] and urged the ICRC to submit a new appeal to the United Nations General Assembly, then in session, calling for a ban on nuclear weapons. Although not personally in favour of the ICRC launching a second appeal, Paul Ruegger observed that, if it did, it would be addressed to the States party to the Geneva Conventions and would be conveyed to the General Assembly for its information only. He made it clear, however, that he would prefer to convene a conference of experts.\[^{29}\]

**Refocusing the ICRC’s efforts**

The ICRC was somewhat circumspect about the results of its appeal. Whatever its moral force, it had not resulted in any developments in positive international law or progress in the political talks under way within the United Nations.

Against this backdrop – and in view of the fact that the question of the protection of the civilian population was being addressed in relation not only to nuclear weapons, but also to the use of armed force in general, whatever the method of warfare – the ICRC’s Legal Division proposed refocusing the organization’s efforts towards a regulation of the use of force that was better adapted to the newly developed

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\[^{27}\] Minutes of the meeting of the Presidential Council held on 27 July 1950 and minutes of the meeting of the Legal Commission held on 2 October 1950 – ICRC Archives, A Pv.

\[^{28}\] In late 1950, the Soviet representative to the United Nations, Andrei Vichinsky, had referred to the ICRC’s appeal. Minutes of the meeting of the Presidential Council held on 13 December 1951 – ICRC Archives, A Pv.

\[^{29}\] Minutes of the meeting of the Legal Commission held on 1 February 1952 – ICRC Archives, A Pv.
techniques of warfare than the rules contained in the Law of The Hague. The aim was to restore the principle that people not taking part in the hostilities must, as far as possible, be spared. It seemed that “the only way to achieve this, at this time, is to agree either on a more precise and generally accepted definition of objectives that can be lawfully attacked or an extension of the list of protected objects or a combination of the two.”

The Legal Division proposed convening a conference of experts. This proposal was accepted, although a number of qualified experts were to be discreetly consulted beforehand.

In the meantime, the 18th International Conference of the Red Cross, held in Toronto in August 1952, adopted a resolution on nuclear weapons, following a highly politicized debate. This resolution, linking the question of banning nuclear weapons to the question of international control, was based on the position defended by the Western States in the United Nations Disarmament Commission.

Protection of the civilian population from the dangers of indiscriminate warfare

Conference of experts for the protection of the civilian population from the dangers of aerial warfare and the use of non-directed missiles

Consultations and preparatory work

The preliminary consultations conducted by the ICRC’s Legal Division with four experts from the United States, the United Kingdom and Switzerland proved disappointing. They doubted that it would be possible to achieve a regulation of the use of armed force aimed, in particular, at imposing constraints on aerial bombardment. In spite of these opinions, the Legal Division went ahead with its proposal, because it considered it important for efforts to continue outside the United Nations. The Legal Commission backed Max Huber’s view that it was within the remit of the ICRC to examine the extent to which the Geneva Conventions were applicable if the law of war were not amended. It therefore asked the Legal Division to prepare a report that would serve as a basis for the work of a conference of experts on the rules of the law of war in force for the protection of the civilian population and how they could be reaffirmed and, where possible, extended and adapted.

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30 Documentation relating to item 2 of the agenda for the meeting of the Legal Commission held on 1 February 1952 – ICRC Archives, A PV.
31 Minutes of the meeting of the Legal Commission held on 1 February 1952 and the documentation relating to item 2 of the agenda.
32 See p. 108 above.
33 Minutes of the meeting of the Legal Commission held on 22 January 1953 – ICRC Archives, A PV.
34 Ibid.
In mid-April 1953, the Legal Division submitted the requested draft report to the Legal Commission, which approved the idea of holding a private conference of experts to carry out the preliminary work, although it considered it necessary to first consult with some of the National Societies.\(^35\)

This time, the response was encouraging, with the majority of the National Societies consulted expressing their interest in the ICRC’s initiative and pledging their support.\(^36\) The ICRC therefore decided to go ahead with the conference and asked each of these National Societies to suggest the names of one or two experts who it would invite in a personal capacity, along with a number of specialists it already had in mind. In the explanatory document accompanying the letter it sent to them, the ICRC pointed out that the difficulty of this undertaking lay largely in the political issues tied in with the questions to be examined. It was for this reason that the ICRC decided to hold the conference of experts as a private meeting, with participants expressing opinions under their own responsibility and the ICRC undertaking not to make the debates public without the consent of the participants.\(^37\)

By the end of 1953, all the National Societies contacted had replied to the letter sent to them three months earlier, except the Soviet Alliance of Red Cross and Red Crescent Societies and the Polish Red Cross. Although the Alliance did not reply in writing, it verbally encouraged the ICRC to press ahead with its initiative, remarking that, at this stage of the work, the presence of the Soviet Union was perhaps not crucial. The official invitations were finally sent out at the beginning of 1954, accompanied by preparatory documentation and an annotated agenda.\(^38\)

**Proceedings of the Conference of Experts**

The Conference of Experts on the question of legal protection for the civilian population and victims of war in general from the dangers of aerial warfare and the use of non-directed missiles was held in Geneva at the ICRC’s headquarters from 6 to 13 April 1954. It was attended by sixteen experts from Belgium, Finland, France (2), the Federal Republic of Germany, India, Italy, Japan (2), the Netherlands (2), Norway, the United Kingdom, the United States (2) and Yugoslavia. The Soviet Union, Poland and the German Democratic Republic did not take part, in spite of repeated

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35 Note concerning item 2 of the agenda for the Legal Commission meeting held on 16 April 1953 and Documents D 273 and D 274 appended to the minutes of this meeting – ICRC Archives, A PV.

36 Minutes of the meeting of the Legal Commission held on 4 June 1953 – ICRC Archives, A PV. In the intervening period, Stalin’s death on 5 March 1953 had led to something of a thaw in international relations.

37 Minutes of the meetings of the Legal Commission held on 4 June, 16 September and 25 September 1953, the minutes of the plenary meeting of the ICRC held on 17 September 1953 and the preparatory documentation compiled for these meetings – ICRC Archives, A PV.

38 Minutes of the meetings of the Legal Commission held on 22 December 1953 and 23 March 1954 and the minutes of the plenary meeting of the ICRC held on 18 February 1954 – ICRC Archives, A PV.
approaches made by the ICRC to persuade these countries to send experts. The ICRC
delegation was formed by President Paul Ruegger, Vice-President Frédéric Siordet and
Legal Commission Chairman Léopold Boissier, who were joined by Jean Pictet and
Claude Pilloud, the director and deputy director for general affairs respectively.

The experts began with a general examination of the problem. They confirmed that
fundamental considerations of humanity called for binding restrictions to be placed
on aerial warfare to protect the civilian population. “Military necessities must give
way, in certain cases,” they stated, “to the broader principle that defenceless people
must be protected from unnecessary suffering and from suffering that is disproport-
ionate to the military advantage gained.” 39

While the experts agreed that this principle should be applied not only to conven-
tional weapons, but also to newly developed ones, they also considered that control of
the most destructive weapons, such as atomic and hydrogen bombs, 40 required a poli-
tical rather than a legal solution. Several experts expressed the view that it would be
nigh on impossible to restrict the use of weapons that nations considered essential to
their national security. The military experts agreed that the use of nuclear weapons for
tactical and strategic purposes would be “virtually inevitable” 41 in future hostilities, if
not ruled out by an international agreement of a political nature.

With regard to the prohibition of aerial attacks on the civilian population and
the limitation of aerial attacks on military targets, questions expressly included in the
agenda by the ICRC, the Conference of Experts unanimously agreed on the following
general principles:

- aerial attacks should be limited to military objectives;
- hospital and safety zones established under the Geneva Conventions of 1949 and
  the buildings listed in Article 27 of the Regulations annexed to Hague Convention
  IV of 1907, 42 except for scientific establishments engaged in national defence work,
  should under no circumstances be considered military objectives.

However, the Conference of Experts failed to reach a general consensus on defining
the terms “military objective” and “civilian population”. It was pointed out that

39 Report of the Conference of Experts on legal protection for the civilian population and victims of
war in general from the dangers of aerial warfare and non-directed weapons, Geneva, April 1954
(Document D 339), appended to the agenda for the meeting of the Legal Commission held on
28 April 1954 – ICRC Archives, A PV and B AG 051 Pj 003.05.
40 The hydrogen bomb or thermonuclear bomb (H bomb) was a new type of weapon which was much
more powerful than the A bomb. It involves nuclear fusion, rather than nuclear fission, to release
nuclear energy.
42 According to this article: “In sieges and bombardments all necessary steps must be taken to spare,
as far as possible, buildings dedicated to religion, art, science, or charitable purposes, historic monu-
ments, hospitals, and places where the sick and wounded are collected, provided they are not being
used at the time for military purposes.”
distinguishing between civilians and combatants had been made increasingly difficult not only by the development of new weapons, but also by the advent of total war. The term “civilian population” should therefore refer only to those taking no direct or indirect part in the war effort.

On the subject of precautions during attacks, the Conference of Experts confirmed that some of the articles in the Regulations annexed to Hague Convention IV of 1907 were valid for aerial warfare, such as the prohibition on using weapons, projectiles or material likely to cause superfluous injury, but considered others to be obsolete.

They decided not to issue an opinion on whether the Geneva Protocol of 1925 prohibits, or should prohibit, the use of nuclear weapons and radioactive substances in wartime.

At the end of the Conference, the experts unanimously adopted a resolution, which stated:

[I]f the destructive power of the weapons of war remains unlimited, and their use unrestricted, as would be the case with atomic and various nuclear weapons, selective bombing of targets in order to distinguish between combatants and non-combatants or legitimate military targets and protected areas would be virtually impossible.

The [Conference of Experts] is therefore definitely of the opinion that if the population is to be adequately protected, the primary condition is the limitation of the destructive power of the weapons of war.\(^4^3\)

**Outcome and next steps**

The outcome of the Conference of Experts gave rise to mixed reactions within the ICRC. For some, the problem of protecting the civilian population was even more serious than first thought! The Conference of Experts revealed that those in military circles were not about to accept rules limiting aerial warfare and believed the use of weapons of mass destruction to be a real possibility. In addition, a part of the rules of the Law of The Hague governing the conduct of hostilities was considered out of date. Others were more optimistic, considering that a number of sufficiently clear rules could be extracted from the Conference of Experts report: attacks on the civilian population are prohibited; bombardments intended to terrorize the civilian population are prohibited; bombardments must be confined to military objectives; and the effects of the methods and means of warfare must not be disproportionate to the advantage sought. Although it was true that no agreement had been reached on defining the terms “civilian population” and “military objective”, consensus among the governments on the principles would make the task of the legal experts so much easier. In any event, it was generally agreed within the ICRC that it had to continue defending humanitarian principles. It therefore decided to send a summary report

\(^{43}\) Report of the Conference of Experts (D 339), op. cit.
of the Conference of Experts, along with the preparatory documentation that it had compiled for it, to the National Red Cross Societies before the upcoming meeting of the Board of Governors of the League of Red Cross Societies.\textsuperscript{44}

These documents, sent on 14 May 1954, achieved their aim, as the Board of Governors, which met in Oslo from 24 to 29 May 1954, unanimously adopted a resolution requesting the ICRC to “make a thorough examination of the subject and propose at the next International Conference of the Red Cross the necessary additions to the Conventions in force in order to protect civilian populations efficiently from the dangers of atomic, chemical and bacteriological warfare”.\textsuperscript{45}

Encouraged by this show of support, the ICRC decided to press ahead. Its chief goal was for the 19th International Conference of the Red Cross, due to be held in New Delhi in 1956, to adopt a set of principles, accompanied by a series of implementing rules, governing aerial warfare.\textsuperscript{46}

In November 1954, the ICRC took advantage of the presence of representatives of National Red Cross Societies at the meeting of the Executive Committee of the League to organize an information meeting at its headquarters in Geneva, with a view to bringing them up to date on the outcome of the Conference of Experts, explaining how it intended to continue this work and outlining a set of draft rules on aerial warfare. It emphasized that banning nuclear weapons, the main aim of its appeal of 5 April 1950, would not necessarily, in itself, put an end to indiscriminate bombardments. The fundamental idea underlying the draft rules was that, whatever type of weapon was used, the methods of warfare employed could not involve attacks on non-combatants or prevent the work of the Red Cross. The representatives of the National Societies encouraged the ICRC to continue its efforts and to inform the general public of the work undertaken in this field, with the help of the National Societies. To this end, a press release was issued.\textsuperscript{47}

\textsuperscript{44} Summary of the opinions expressed by the Conference of Experts held in April 1954 in Geneva, May 1954 (Document D 347). Minutes of the meeting of the Legal Commission held on 28 April 1954 – ICRC Archives, B AG 051 Pj 003.02 and A PV.


\textsuperscript{46} Minutes of the meeting of the Legal Commission held on 1 July 1954 and document appended to the agenda concerning follow-up to the Conference of Experts on the protection of the civilian population. Minutes of the meeting of the Presidential Council held on 15 July 1954 – ICRC Archives, B AG 051 Pj 001.04 and A PV.

Attitude of the Red Cross to nuclear testing

In spite of its devastating effects, the bombing of Hiroshima and Nagasaki did not cause much of an outcry at the time, because it had brought the war to an end. It was not until 1952–1953, when the first hydrogen bomb tests were conducted by the Americans and then by the Soviets and information came to light about the amount of radioactive material these tests released into the atmosphere, that the world really woke up to the nuclear threat.

It was then that the ICRC received a flood of protests and requests for information, some from Japanese associations and National Red Cross Societies. In March 1955, ICRC Executive Director Roger Gallopin proposed organizing a scientific conference to independently and objectively determine the real dangers that thermonuclear explosions posed to mankind, as there were still differing opinions among scientists on this subject. The thinking was that a general confirmation of these dangers under the auspices of a neutral organization such as the ICRC would hopefully influence governments to give up nuclear testing and therefore the use of nuclear weapons. Roger Gallopin acknowledged that there were major difficulties to be overcome, not least securing the participation of the three countries that were directly concerned and possessed first-hand information on the matter: the United States, the United Kingdom and the Soviet Union. There was a fear that these countries would be unwilling to disclose their secrets or provide information that might support arguments that contradicted their position.

When the Presidential Council came to discuss this proposal, the moment had already passed. The ICRC had learned, in the meantime, that the Federation of American Scientists had written a letter to the US Department of State in Washington and the US representative to the United Nations, proposing that the UN Secretary General create an international commission tasked with assessing the effects of nuclear explosions and determining whether it was possible to establish a danger threshold. The ICRC therefore decided not to hold the proposed meeting on account of the

48 Over 118,000 civilians deaths in Hiroshima as at 10 August 1946, a year after the bombing, and over 73,000 in Nagasaki, not to mention the injured. See I.C.B. Dear, M.R.D. Foot (eds), *The Oxford Companion to the Second World War*, Oxford University Press, Oxford/New York, 1995, pp. 531 and 773.

49 Particularly following the H bomb test on Bikini Atoll on 1 March 1954, which had serious after-effects on the health of Japanese fishermen 90 miles (167 kilometres) away from the site of the explosion. When one of them succumbed to his injuries, caused by exposure to radiation, his death received extensive media coverage.

50 Document SP 54 on the permanent dangers posed by nuclear explosions, prepared for the meeting of the Presidential Council held on 31 March 1955, and revised Document SP 56, prepared for the plenary meeting of the ICRC held on 7 April 1955 – ICRC Archives, A PV.

51 A translation of this letter was appended to the minutes of the meeting of the Presidential Council held on 31 March 1955 – ICRC Archives, A PV. In December 1955, the United Nations General Assembly would set up a scientific committee tasked with determining the precise dangers posed by radioactivity.
difficulties highlighted by its executive director and because it did not want to tread on the heels of other organizations that had already embarked on similar initiatives.52

Draft rules for the limitation of the dangers incurred by the civilian population in time of war

Examination of the Draft Rules by National Red Cross Societies

In early May 1955, the Legal Division submitted to the Legal Commission the Draft Rules for the limitation of the dangers incurred by the civilian population in time of war, accompanied by a Commentary to facilitate the study of the draft. These documents, largely penned by René-Jean Wilhelm, were sent out to National Red Cross Societies on 27 June. They were asked to send their comments to the ICRC by 15 November 1955. This deadline was extended to the end of February 1956, when the 19th International Conference of the Red Cross was postponed.53

Some forty National Societies provided feedback to the ICRC, and over twenty of these sent detailed comments. Some National Societies even set up ad hoc expert committees and expressed their wish to undertake a joint examination of the Draft Rules. Only three National Societies, those of the United States, Australia and the United Kingdom, objected to this suggestion. According to them, the ICRC did not have a mandate to limit the use of weapons, as this was a matter solely within the province of governments.54

In these circumstances, the ICRC declined to convene an official meeting but invited the interested National Societies to appoint one or two representatives in Geneva to take part in an advisory working party. It informed the other National Societies that it was forming a working party and that all those wishing to take part in the work could do so by sending qualified experts. In the end, 17 experts representing 12 National Societies55 attended the meeting, which was held from 14 to 19 May 1956 and chaired by ICRC Vice-President Frédéric Siordet. With a few amendments, the Draft Rules were approved by a majority of the participants.

52 Minutes of the meeting of the Presidential Council held on 31 March 1955 and of the plenary meeting of the ICRC held on 7 April 1955 – ICRC Archives, A PV.
54 Minutes of the meeting of the Presidential Council held on 22 March 1956 – ICRC Archives, A PV. See, for example, the letter of 7 November 1955 from the American Red Cross to the ICRC (D 429 b) – ICRC Archives, B AG 051 Pj 001.
55 They were the National Societies of the following countries: Belgium, France, Federal Republic of Germany, German Democratic Republic, India, Japan, Mexico, Netherlands, Norway, Poland, Switzerland and Yugoslavia.
As the ICRC noted, this approval was hardly surprising, coming as it did from representatives of countries that, generally speaking, were more likely to be the victims of indiscriminate warfare than the attackers. Nevertheless, it considered that the objections put forward by the National Societies of the Anglo-Saxon countries had lost force in the face of the virtually unanimous endorsement given by the advisory working party. The National Societies of the Eastern European countries that had taken part in the advisory working party formally encouraged the ICRC to continue its work. However, the ICRC hoped, above all, to be able to count on the support of the Western European countries which, while exercising a degree of restraint, had shown themselves to be ardent defenders of the Draft Rules.\(^{56}\)

*Approval of the Draft Rules by the ICRC*

The deliberations of the advisory working party gave rise to an analytical report, which was sent to the participating National Societies in July 1956.\(^{57}\) With the help of the information drawn from these discussions and the remarks submitted by the National Red Cross Societies, the ICRC finalized a new version of the Draft Rules.

The plenary assembly of the ICRC was asked to approve the principle of the Draft Rules at the beginning of August 1956, before they were sent to all the National Societies and governments that were members of the International Conference of the Red Cross. This was an initiative that went beyond the bounds of international humanitarian law – or the Law of Geneva – in the strictest sense, encroaching on the sphere of the law of war – or the Law of The Hague. While the Geneva Conventions essentially protect people who have fallen into the hands of the enemy, the Draft Rules contained rules concerning the conduct of hostilities and the use of weapons that would be binding on the parties to a conflict. It was therefore important for all the members of the ICRC to be given a chance to voice their opinions on this new turn taken by the organization.\(^{58}\)

Following a general discussion, the ICRC unanimously adopted the Draft Rules in principle, entrusting the task of deciding on the final wording to the Presidential Council. It also stressed how important it was to convince the National Societies that the text was a realistic compromise between extremes and to prepare well for the discussions at the 19th International Conference of the Red Cross by contacting the National Societies beforehand.\(^{59}\)

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56 Minutes of the meeting of the Presidential Council held on 24 May 1956 and the document relating to item 1 on the agenda of the plenary meeting of the ICRC held on 2 August 1956 – ICRC Archives, A PV.


58 On the subject of this distinction, still in force at that time, see footnote 156, p. 253 above. Minutes of the meeting of the Presidential Council held on 26 June 1956 – ICRC Archives, A PV.

59 Minutes of the plenary meeting of the ICRC held on 2 August 1956 – ICRC Archives, A PV.
The text of the Draft Rules with introduction and commentary

In the introduction, the ICRC makes it clear that the Draft rules for the limitation of the dangers incurred by the civilian population in time of war are wholly consistent with the fundamental mission of the Red Cross, which is to assist the victims of war and limit the effects of warfare through the development of international humanitarian law. It also stresses that the Red Cross is neutral in political matters and that while it condemns armed force as a means of settling disagreements between nations, there is no denying that the risk is real. Hence the need for the Draft Rules, at a time when everyone knew that “the extensive use of certain weapons would mean extermination of whole nations and the end of civilization” and that “the recent Geneva Conventions would themselves be ineffective if the belligerents were unrestricted in their choice of means and methods of warfare”.

The ICRC observes that some would have preferred “the prohibition, pure and simple, of certain weapons”, while others wanted “more technical details”. In this regard, it clarifies that, while it had taken into account certain realities, it had approached the matter solely from the Red Cross angle, concluding that:

> It is Governments that will have to draw their own conclusions from the enclosed Draft and seize the opportunity – perhaps the last – which it offers them. If they think fit, they can modify it, cut it down or add clauses of a more definitely technical description, or prohibitions of a more detailed or sweeping nature.

The International Committee of the Red Cross feels that it is fulfilling its duty in proposing that they should take the results of its work as a basis for discussion.

The text of the Draft Rules is laid out in twenty articles divided into six chapters. The first chapter – object and field of application – begins by stating the two essential principles on which the Draft Rules are based, namely that the parties to a conflict do not have an unlimited right to adopt methods and means of inflicting harm on the enemy and that they must spare the civilian population. It specifies that these Rules are applicable in both international and internal armed conflicts. It defines the term “attacks” as all armed hostilities, and not just aerial attacks, and the term “civilian population” as all those not taking part in the fighting.

Chapter II – objectives barred from attack – reaffirms the immunity of the civilian population. It prohibits attacks on civilians, particularly when the object is to terrorize them. There is, however, a limitation on this prohibition, concerning civilians who are within or in close proximity to a military objective. An attempt is made to define “military objectives”, by providing in the Commentary a list of the categories of objectives considered to have a generally recognized military interest.

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60 Draft rules for the limitation of the dangers incurred by the civilian population in time of war, ICRC, Geneva, April 1958 – ICRC Library.
Chapter III – precautions in attacks on military objectives – specifies the precautions that should be taken before and during attacks. It refers, in particular, to the rule of proportionality with regard to methods and means of warfare and prohibits target-area bombing.\footnote{This prohibits the policy whereby a built-up enemy area protected under the law of armed conflict and containing several separate military objectives (railway stations, bridges, factories, etc.) could be considered as a single objective to be attacked without any precautions being taken. See François Bugnion, \textit{op. cit.}, p. 722.} It also mentions measures for facilitating the work of civil defence bodies.

It is in Chapter IV – weapons with uncontrollable effects – that the issue of nuclear weapons is addressed, specifically in Article 14. This article reads as follows:

Without prejudice to the present or future prohibition of certain specific weapons, the use is prohibited of weapons whose harmful effects – resulting in particular from the dissemination of incendiary, chemical, bacteriological, radioactive or other agents – could spread to an unforeseen degree or escape, either in space or in time, from the control of those who employ them, thus endangering the civilian population.

This prohibition also applies to delayed-action weapons, the dangerous effects of which are liable to be felt by the civilian population.

In the attached Commentary, the ICRC devotes no less than twelve pages to this article, which forms the core of the Draft Rules. It explains the approach adopted in formulating it, which was not to list the methods and means of inflicting harm that are particularly dangerous to the civilian population, but to focus on a common characteristic, namely their uncontrollable effects. The proposed Rules were not therefore concerned with specific weapons but rather with their “use” and effects contrary to the principles of humanity. The reasoning behind this was that a weapon \textit{per se} may undergo substantial technical modifications, and even an ordinary “conventional” missile can be directed against civilians. It was therefore considered preferable to adhere to a permanent criterion and avoid overly technical definitions, which might leave some indiscriminate weapons outside the scope of the Rules and which would have to be constantly updated every time a new weapon was developed.

In the Commentary on this article, the ICRC also refers to the issue of testing weapons in peacetime, stressing that it cannot ignore this matter, given the dangers it poses. It observes that these dangers are of a moral as well as of a physical nature, as repeated nuclear testing would accustom mankind to the idea of total war on a vast scale.

Returning to the text of the Draft Rules, Chapter V – special cases – is concerned with “open towns” and installations containing dangerous forces, and Chapter VI establishes measures for the application of the Rules.

In the Commentary on the Draft Rules, the ICRC states that it wishes to see them become a diplomatic instrument binding the greatest possible number of
States. It makes it clear that the idea was to establish an instrument quite distinct from the Geneva Conventions, intended to supplement them, as well as the Hague Conventions and the 1925 Geneva Protocol. The ICRC preferred to give its initiative the form of a statement of principles – albeit one that could be easily converted into a diplomatic instrument – rather than an actual draft convention, for two main reasons. The first was that the procedure it had followed to produce these Draft Rules was not the same as for the Geneva Conventions, since the preparatory work had been carried out entirely within the confines of the Red Cross. The second reason was that it wished to avoid three pitfalls: establishing rules of too technical a nature, which was a matter for military experts; imposing prohibitions that were within the province of governments; and giving the impression that war is justifiable.

**US request to withdraw the Draft Rules**

This question was brought before the governing bodies of the ICRC again in July 1957, a few months before the 19th International Conference of the Red Cross was due to be held.62

During a visit to the ICRC headquarters, the president of the American Red Cross, General Alfred M. Gruenther, pointed out that, in view of the deterioration of the international situation – October 1956 was marked by the events in Hungary and developments in the Suez Crisis63 – the Draft Rules had acquired political significance and risked causing a rift in the International Red Cross. He considered it unwise to submit the text to the New Delhi Conference in these circumstances. Shortly after, the consul general of the United States in Geneva also approached the ICRC to ask it to withdraw the Draft Rules. According to the US authorities, they did not take into account the current situation, which was that two world powers were prepared to use nuclear weapons in the event of a general war.64 Furthermore, the Draft Rules risked raising very controversial issues and undermining the prestige of the Red Cross. In submitting the draft to the New Delhi Conference, the ICRC would go beyond its traditional bounds and risk compromising its impartiality and neutrality.

Alerted to these dangers by the American Red Cross, the National Societies of Western Europe – on which the ICRC relied most for support – suggested adopting a resolution for the Draft Rules to be simply conveyed to the governments in order to avoid discussions of a political nature.65

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62 On the proceedings of this conference, see Françoise Perret and François Bugnion, _op. cit_. The account given here is confined to discussions concerning the Draft Regulations.

63 These events resulted in the 19th International Conference of the Red Cross being postponed a second time; the first postponement was for technical reasons. See Françoise Perret and François Bugnion, _op. cit_.

64 The ICRC president received corroboration of this statement from the NATO secretary general.

65 Minutes of the meetings of the Presidential Council held on 25 July and 1 August 1957 and of the plenary meetings of the ICRC held on 8 August and 12 September 1957 – ICRC Archives, A PV.
The issues

The ICRC was aware that the International Conference of the Red Cross was at risk of becoming politicized. Although it was to seek to introduce a total ban on nuclear weapons in the Draft Rules, it would tone the initiative down by presenting it as a statement of the principles of humanity applicable in all circumstances. Although the ICRC had to avoid the dangers posed, it had a duty, above all, to pursue the goal that it had set when it first undertook the initiative, which was for the International Conference of the Red Cross to proclaim the validity of the principles established in the Draft Rules and their vital importance to the work of the Red Cross in wartime.

Léopold Boissier, who became president of the ICRC in September 1955, stressed that the views put forward by the Americans, whether justified or not, should be carefully considered. The value of the Draft Rules was not being called into question, but it was important to realize that they concerned methods and means of warfare and therefore had a bearing on the security of States. The ICRC was torn between its desire to reaffirm the principles that it considered to be always valid and its international responsibility. It finally decided not to withdraw the Draft Rules, which was tantamount to making a political statement. It did, however, take care to ensure that the discussions remained within the bounds of the humanitarian sphere, providing for the possibility of relieving itself of all responsibility if the discussions took an unfavourable turn. An introductory statement was made to this effect when the Draft Rules were presented.

The wording of this statement was accepted, in principle, at the plenary meeting of the ICRC held on 8 August 1957. However, discussion about the arrangements for the submission of the Draft Rules continued for several weeks. Some ICRC members were in favour of sending a realistic and conciliatory draft resolution to the National Societies beforehand, in the hope that this would help to keep the initiative alive. Others were opposed to this idea, because they saw it as an attempt to avoid discussion and disregard the Draft Rules themselves or because they feared alienating the anti-Western camp. They all agreed on the need to secure approval both on the principles underlying the Draft Rules and the initiative taken by the ICRC. Eventually, for fear of the Western delegations abandoning the 19th International Conference of the Red Cross if the ICRC did not make its position clear in advance, a majority declared themselves in favour of sending a draft resolution. In it, the International Conference asked the ICRC to:

continue its efforts, on the basis of these Draft Rules, to prepare the ground for an international agreement aimed at alleviating the evils of war, and

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66 Minutes of the meeting of the Presidential Council held on 1 August 1957 and of the plenary meeting of the ICRC held on 8 August 1957; the documents appended to the respective agendas of these meetings concerning examination of the Draft Rules at the New Delhi Conference – ICRC Archives, A PV.
Resolves that, for this purpose, the record of its discussions and the text of the proposals put forward by the delegations shall be appended to the Draft Rules.\textsuperscript{67}

This wording, it should be noted, represents a significant step back from the sentiment expressed by the ICRC in the Commentary accompanying the Draft Rules, in which it stated that it had an “intense desire to see the proposed Rules become a diplomatic instrument, thus giving them unquestioned authority and binding the greatest possible number of States”\textsuperscript{68}.

Nineteenth International Conference of the Red Cross

At the 19th International Conference of the Red Cross held in New Delhi from 28 October to 7 November 1957, examination of the Draft Rules was entrusted to the International Humanitarian Law Commission under the chairmanship of John A. MacAulay, vice-president of the Canadian Red Cross. The deliberations began with an introductory statement by ICRC Vice-President Frédéric Siordet. After explaining the origins and different stages in the development of the Draft Rules, he clarified that the task had been approached from the viewpoint of the Red Cross, which differentiated the ICRC’s initiative from other resolutions seeking a prohibition pure and simple of the use of nuclear energy for military purposes. He also made the following points:

[A]ttempts to achieve total prohibition under effective safeguards have for a long time been under discussion in the United Nations. Now, the Red Cross is not a political institution; it has no competence in the art of war and still less in nuclear science. It does not have to concern itself either with the manufacture of armaments or with the elaboration of strategy. Its only anxiety is, and should remain, the protection of non-combatants and the giving of relief.

The ICRC therefore considered that a solution should not be sought in drawing up a catalogue of authorized or prohibited means of warfare, but rather in making out a list of principles ensuring the safety of those who must, by general consent, be protected from attack.

With regard to the procedure for examining the Draft Rules, the ICRC pointed out that the draft resolution that had been forwarded to all the National Societies before the Conference did not call for formal approval of the Draft Rules. It considered

\textsuperscript{67} Minutes of the meetings of the Presidential Council held on 15 August, 29 August and 4 September 1957 and of the plenary meeting of the ICRC held on 12 September 1957 – ICRC Archives, A PV. 19th International Conference of the Red Cross, New Delhi, October–November 1957, Final record concerning the draft rules for the limitation of the dangers incurred by the civilian population in time of war, ICRC, Geneva, April 1958, p. 121 – ICRC Library.

\textsuperscript{68} Commentary on the draft rules for the limitation of the dangers incurred by the civilian population in time of war, Geneva, September 1956, p. 19.
that there was no need to discuss them and revise them article by article during the Conference:

Only Governments and their specialists can draw up international conventions in their final form. This is a Red Cross meeting and not a Conference of Experts. Moreover, in the very short time available it would not be possible to reconcile differences of opinion on the wording of each article without running the risk of distorting the text of the Draft with harmful results for its future.

Votes on particular provisions of the Draft Rules do not matter at present. The various opinions expressed on the subject, and any remarks and suggestions you may make concerning possible amendments, will be carefully noted with a view to the drawing up, later on, of the regulations which we all wish to see come into being. What matters now, and what we are proposing is that this XIXth International Red Cross Conference should give the opportunity for all the delegates present to unite in stating their unanimous approval of the basic principle of the Draft Rules: the protection of the civilian population in the event of an armed conflict.69

The deliberations of the International Humanitarian Law Commission on this matter lasted more than two days. Of the 82 National Red Cross Society and government representatives taking part in the Conference, 62 representing 47 countries took the floor to talk about the Draft Rules.70 Matters of procedure and substance were both addressed.

On the question of procedure, the chairman of the Commission proposed that they vote directly on the ICRC’s draft resolution, while the communist-bloc countries wished to first examine the substance of the Draft Rules before proceeding to a vote on the resolution. A proposal submitted by Sweden and supported by the other Scandinavian countries and the Anglo-Saxon countries gave the ICRC cause to fear, for a moment, that the Draft Rules might simply be passed on to the governments for examination, dispossessing it of its initiative. Arguing that the question of the atomic bomb was already being discussed by the United Nations Disarmament Commission, the chairman of the Swedish Red Cross proposed simply submitting the Draft Rules to the governments for consideration, making no reference to the ICRC continuing its work to prepare an international agreement or any further discussion. Yugoslavia argued in favour of the Draft Rules being adopted in principle, as proposed by the ICRC in its draft resolution, while the Soviet Union suggested that the organization should continue its work on the basis of the Draft Rules. None of these proposals was adopted.

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69 Final record concerning the draft rules for the limitation of the dangers incurred by the civilian population in time of war, op. cit., pp. 7–11. ICRC Annual Report 1957, pp. 80–83.
70 Final record concerning the draft rules for the limitation of the dangers incurred by the civilian population in time of war, op. cit., p. 2.
Discussion of the substance of the Draft Rules focused on Article 14 concerning prohibited methods of warfare. The delegations of the communist countries, as well as some other States, such as Japan, were of the opinion that the wording was not clear enough and argued for the inclusion of a total ban on the use of nuclear weapons and all weapons of mass destruction. The delegations of the Western-bloc countries then raised a number of points, including legitimate defence, supervision and sanctions. Their intention was to demonstrate not only that it was too complex a question to be discussed at a Red Cross meeting but also that it was too political and a matter solely in the province of governments.\(^{71}\)

Eventually, the deliberations of the Commission resulted in the adoption of a draft resolution, which was unanimously approved by the 19th International Conference in a plenary session. Resolution XIII states that the International Conference:

- Deems that the objectives of the Draft Rules submitted are in conformity with Red Cross ideals and the requirements of humanity,
- Urges the International Committee of the Red Cross to continue its efforts for the protection of the civilian population against the evils of war, and
- Requests the International Committee of the Red Cross, acting on behalf of the XIXth International Conference, to transmit the Draft Rules, the record of its discussions, the text of the proposals, and the submitted amendments, to the Governments for their consideration.\(^{72}\)

With the adoption of this resolution, there was no longer any question of an international agreement being established by the ICRC. It therefore represented a further watering down of the wording of the draft resolution submitted by the ICRC, which had itself been a step back from the Commentary accompanying the Draft Rules. In practical terms, Resolution XIII amounted to the shelving of the Draft Rules, because it entailed, at least indirectly, in Article 14, a condemnation of nuclear weapons.

In May 1958, the ICRC forwarded a 184-page document containing a record of the proceedings of the 19th International Conference of the Red Cross concerning the Draft Regulations to all the governments and, for informational purposes, to all the National Red Cross Societies.\(^{73}\) It was accompanied by a memorandum in which it expressed its willingness to continue its legal work in this field, with a view to contributing to progress towards an international agreement, and its interest in receiving suggestions from governments on this subject.\(^{74}\)

None of the governments took any concrete action in response to the ICRC’s offer.

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\(^{71}\) *Final record concerning the draft rules for the limitation of the dangers incurred by the civilian population in time of war*, op. cit., pp. 11 ff. *ICRC Annual Report 1957*, p. 83. Minutes of the plenary meeting of the ICRC held on 5 December 1957 – ICRC Archives, A PV.


\(^{73}\) *Final record concerning the draft rules for the limitation of the dangers incurred by the civilian population in time of war*, op. cit.

Conclusion

In the first decade after the Second World War, the ICRC steadfastly persevered in its efforts to see the use of the atomic bomb prohibited or restricted, in spite of the obstacles placed in its path. Significant milestones in this period included its circular letter of 5 September 1945, its appeal of 5 April 1950 sent to the governments of States party to the Geneva Conventions, the private Conference of Experts held in April 1954 and, lastly, the development in 1956 of the Draft Rules for the limitation of the dangers incurred by the civilian population in time of war. It was supported in this process by the different International Red Cross bodies, which adopted a series of resolutions recommending a nuclear weapons ban.

From 1946 onwards, after the Baruch Plan had been rejected by the Soviet Union, this matter took on a political dimension, and it was increasingly difficult to address it purely from the perspective of international humanitarian law. The refusal of the Diplomatic Conference of 1949 to accept the draft resolution proposed by the Soviet Union calling for the adoption of a convention banning nuclear weapons was the first manifestation of these difficulties.

With its appeal of 5 April 1950, the ICRC relaunched the Soviet proposal as its own. The outbreak of the Korean War in June 1950 caused it to postpone the publication of the replies to the appeal received from governments by several weeks, because it feared that it might be regarded as a political stand and undermine its status as a neutral intermediary.

The ICRC continued to pursue this goal in 1952 but shifted the focus of its approach in light of the weak response it received to its appeal. Instead of putting the emphasis on banning the use of non-directed weapons, including the atomic bomb, as it had up to that point, it focused on the principle of the entitlement of the civilian population to immunity from the effects of war.

At the end of that year, politics once again intruded into the humanitarian sphere, when the 18th International Conference of the Red Cross adopted a resolution on nuclear weapons based on the position advocated by the Western States in the United Nations.

Nevertheless, the ICRC remained steadfast, organizing a Conference of Experts in April 1954 and developing the Draft Rules for the limitation of the dangers incurred by the civilian population in time of war for submission to the 19th International Conference of the Red Cross.

It was not until 1957, after the American request to withdraw the Draft Rules, that the ICRC decided to make some concessions. For fear of the Anglo-Saxon delegations abandoning the 19th International Conference and of causing a rift in the International Red Cross – and in response to the concerns voiced by Western European National Societies in this respect – the ICRC toned down its initiative significantly, with a view to avoiding what promised to be a highly politicized debate.

At the end of 1957, however, after the Conference, the ICRC considered that it had achieved the goals it had set itself: the principles underlying the Draft Rules had
been endorsed, and the ICRC had not been dispossessed of its initiative. Aware that
the political and strategic issues raised by the question of nuclear weapons were very
much outside the bounds of international humanitarian law, it believed that the reso-
lution adopted was undoubtedly the most that could have been expected from the
international community in the military and political climate prevailing at that time.\textsuperscript{75}

It would, in fact, be twenty years before the protection of the civilian population
from the effects of war was provided for in an international instrument, with the
adoption of the \textit{Protocol Additional to the Geneva Conventions of 12 August 1949,
and relating to the Protection of Victims of International Armed Conflicts} (Protocol I)
on 8 June 1977. Article 51 of this Protocol prohibits indiscriminate attacks on the
civilian population but does not explicitly ban nuclear weapons, and this was to
remain a highly controversial issue.\textsuperscript{76}

\begin{itemize}
\item \textsuperscript{75} Minutes of the plenary meeting of the ICRC held on 5 December 1957 – ICRC Archives, A PV.
\textit{ICRC Annual Report 1957}, p. 84.
\end{itemize}
CHAPTER 8

Application of humanitarian principles to internal disturbances and protection for political detainees

The ICRC began visiting political detainees at the end of the First World War, initially in Russia (1918) and then in Hungary (1919).¹

During the interwar period, the organization carried out occasional visits to political detainees in seven countries: Russia (1921-1922), the Irish Free State (1922–1923), Poland (1924), Montenegro (1924), Austria (1934), Germany (1933-1938) and Lithuania (1937).² An internal study conducted in 1935 on policy guidelines for such visits led the ICRC to conclude that its right of humanitarian initiative was inalienable and provided it with the grounds to assist political detainees.³

In the wake of the Second World War, the ICRC increasingly found itself facing not only civil wars and internal disturbances⁴ but also situations in which individuals were arrested for political reasons outside of any armed conflict or disturbances.⁵

By virtue of its own Statutes and those of the International Red Cross, the ICRC had a mandate to serve as a neutral intermediary, “particularly in time of war, civil war, or internal strife”.⁶ Moreover, Article 3 common to the four Geneva Conventions of 1949 authorized the ICRC to offer its services to the parties “in the case of armed conflict not of an international character”.⁷ Treaty law did not, however, cover internal disturbances or the treatment of political detainees.

At a time when non-international armed conflict and internal strife were proliferating, the ICRC encountered strong resistance to its presence, especially where fighting remained sporadic and where forces opposing powerful sovereign governments were

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² Ibid., pp. 65–92.
³ Ibid., pp. 94–95.
⁴ These included the civil wars in Greece and China (1946 to 1949); the Jewish-Arab War (1948) before it became an international conflict; the independence struggles and colonial wars – then viewed as internal conflicts or disturbances (Indochina, Indonesia, North Africa); the secessionist insurgencies and other situations of internal violence arising from decolonization (Burma, Punjab and Bengal, South Moluccas) and revolutions or coups d’état in Central and South America, e.g. Guatemala (1954) and Costa Rica (1955).
⁵ E.g. Spain, Eastern Europe and Central and South America.
⁶ Art. VII of the 1928 Statutes of the International Red Cross. The same phrase is found in Art. VI(5), of the 1952 Statutes. See p. 94 above.
⁷ See pp. 232 ff.
as yet poorly organized. Governments to which the ICRC offered its services feared that any assistance provided by the organization would strengthen their adversaries in material terms or, at the very least, embolden them by increasing their visibility and conferring on them a semblance of legitimacy. They also feared that ICRC action could have a bearing on the legal characterization of the conflict or strife and on the status of captured combatants and detainees. In the event of civil war, such considerations led governments to simply deny the existence of a conflict – and hence the applicability of common Article 3 – rather than risk seeing their adversaries granted belligerent status, let alone international recognition.

This state of affairs prompted the ICRC, in the 1950s, to take a hard look at its criteria for assisting the victims of internal disturbances and political detainees.

ICRC role during internal disturbances

Policy guidelines

In March 1952, violence broke out in Tunisia, at the time a French protectorate, leading to mass arrests. Stunned by the reaction of the French Red Cross, which declared itself adamantly opposed to any ICRC presence in North Africa, the organization felt the need to clarify – if only for internal purposes – its policy guidelines regarding such situations. It therefore drafted a document setting out four criteria for ICRC action in connection with internal disturbances, namely that the events must:

- be grave and include acts of violence;
- be of some duration (excluding, for instance, sporadic riots);
- involve organized groups; and
- be serious enough to claim victims.

These criteria defined situations that resembled non-international armed conflict – which was governed by common Article 3 – but did not rise to the level of civil war.

A fifth criterion stipulated that, even if the first four were fulfilled, the ICRC would refrain from stepping in should the National Society of the country concerned be able and willing to act effectively. Moreover, whether the ICRC acted spontaneously or was asked for assistance, its first step should be to consult the National Society and only then, if necessary, offer its services. Lastly, the ICRC must obtain the consent of the authorities, as required by common Article 3 in cases of non-international armed conflict.

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8 See pp. 635 ff. below.
9 Minutes of the meeting of the Legal Commission held on 20 March 1952 – ICRC Archives, A PV.
10 Document D 251 pertaining to ICRC action in the event of civil war or internal strife, undated and unsigned, submitted to the Legal Commission at its meeting held on 22 January 1953 – ICRC Archives, A PV. This document is reproduced in Jacques Moreillon, op. cit., pp. 243–244.
In January 1953, the ICRC’s Legal Commission, chaired by Vice-President Léopold Boissier, gave its approval in principle to the proposed guidelines but decided they would remain internal, so as not to curtail the organization’s freedom of action.\(^{11}\)

**Assisting political detainees**

The ICRC’s renewed interest in the plight of political detainees was the direct result of President Ruegger’s trip to Latin America in July 1952, on the eve of the 18th International Conference of the Red Cross.\(^{12}\)

After the progress made in Toronto – where the Conference had unanimously adopted a resolution calling for ratification of the 1949 Geneva Conventions\(^{13}\) – the ICRC president believed that the time was ripe to reopen the debate on political detainees. In the report he drew up on his visit to Latin America, which he initially submitted to the Legal Commission, he proposed convening a meeting in Geneva of government experts from the countries most concerned by the issue in order to draft a protocol additional to the Geneva Conventions that would protect political detainees.\(^{14}\)

After being approached about the plight of political detainees in Venezuela,\(^{15}\) the ICRC decided to speed up the process. It asked the Legal Commission, which was already working on the criteria for ICRC action during internal disturbances, to expand its study to include the question of political detainees.\(^{16}\)

**Attempt to draft an additional protocol for political detainees**

Although in spirit the 1949 Geneva Conventions call for respect for the basic rights of all individuals everywhere and at all times, the letter of the law yields some authority to sovereign States – in the time-honoured tradition of international law – insofar as the treaties apply only to “protected persons”, defined as non-nationals. The only exceptions to this rule are Part II of the Fourth Convention, entitled “General protection of populations against certain consequences of war”, which applies to all individuals regardless of their nationality, and common Article 3 governing “conflicts not of an international character”.

\(^{11}\) Minutes of the meeting of the Legal Commission held on 22 January 1953 and minutes of the plenary session of the Committee held on the same day – ICRC Archives, A PV.

\(^{12}\) See pp. 616 ff. below.

\(^{13}\) See p. 108 above.


\(^{15}\) See pp. 618 ff. below.

\(^{16}\) Minutes of the meetings of the Commission for External Activities held on 12 November and 12 December 1952 and minutes of the meeting of the Presidential Council held on 13 November 1952 – ICRC Archives, A PV.
Article 3, which limits the discretionary powers of States over their nationals, plays an important role in protecting political detainees. It applies only in the event of non-international armed conflict, however, and does not provide basic humanitarian or judicial guarantees for political detainees in any other situation.

The question therefore arose as to whether governments should not, in the same spirit in which they had adopted common Article 3, seek a humane solution to the problem of political detainees outside the confines of that provision. Since Article 3 stipulated that disarmed combatants must “be treated humanely”, that their basic rights as individuals must be respected and that an “impartial humanitarian body” such as the ICRC must be permitted to offer its services on their behalf, why should this not also be the case for individuals detained after the end of an armed conflict or held preventively to ward off an outbreak of violence? There seemed no reason to draw a distinction between persons exposed to similar dangers, albeit in different situations, or to deny them equal guarantees of humane treatment.  

Such was the thinking that led to the idea of drafting a protocol additional to the Fourth Geneva Convention – which protects civilians in wartime – for the specific purpose of “extending at all times to political detainees, whatever their allegiance, the same protection as that provided under Article 3”. The usual procedure for the adoption of such a protocol is to convene a conference of government experts and then, if required, to ask the Swiss government to convene a conference of plenipotentiaries representing the States party to the 1949 Conventions.

The Legal Commission, which met to examine this idea in late January 1953, approved the principle of assisting political detainees but pointed to various obstacles along the way. A major legal hurdle was how to define “detention on political grounds” – a concept that governments did not generally recognize since they tended to consider any undesirable political acts as ordinary crimes. The Legal Commission also questioned the wisdom of putting forward a new agenda – rather than consolidating the progress made with the adoption of the 1949 Conventions – and feared that the introduction of an additional protocol protecting political detainees might jeopardize implementation of the Fourth Convention. The Commission suggested instead that governments adopt a declaration similar to the Universal Declaration of Human Rights proclaimed on 10 December 1948 by the UN General Assembly. As for the proposed procedure, the Commission deemed it too hasty, pointing out that, in practice, the ICRC could always rely on its right of humanitarian initiative and the Red Cross principles as grounds for coming to the aid of political detainees and seeking to improve their conditions of detention. Instead, the Commission

17 Memorandum of 14 April 1953 drafted by H. Coursier for submission to the Legal Commission at its meeting held on 16 April 1953 – ICRC Archives, A PV.
19 See the objections set forth in Document D 252 of 22 December 1952 by René-Jean Wilhelm. The document was submitted to the Legal Commission at its meeting held on 22 January 1953 – ICRC Archives, A PV.
emphasized the importance of setting precedents on which to base future action and suggested this as the best way to proceed. In the end, it recommended that a small commission of experts be constituted to study, in a private capacity, “the possibility and timeliness of obtaining protection for political detainees”.

During the discussions that preceded the convening of such a commission of experts, the ICRC stressed that its activities for political detainees should be strictly limited – as was the case in Greece – to visiting them, bringing them relief and enabling them to exchange family news. The ICRC felt that it would exceed its mandate were it to take a position on any legal proceedings or on the grounds for such proceedings.

These considerations were set out in a memorandum on assistance to political detainees prepared by the ICRC’s legal team for submission to the commission of experts. Majority opinion within the ICRC was less sanguine than President Ruegger had hoped for, and few expected the commission to recommend the adoption of a convention or a declaration. The most likely outcome, it was thought, would be a document that the ICRC could invoke, if necessary, as “expert opinion” in its efforts to assist political detainees.

First commission of experts

The Commission of Experts for the Examination of the Question of Assistance to Political Detainees, composed of seven Europeans, one Turk, one Mexican and one Venezuelan, convened at ICRC headquarters in Geneva from 9 to 11 June 1953. The ICRC was represented by its president, Paul Ruegger, and its two vice-presidents, Léopold Boissier and Frédéric Siordet. Max Huber, its honorary president, was among the experts.

In its report, the Commission of Experts emphasized that it was guided above all by the understanding that the role of the Red Cross was to alleviate human suffering. Basing its opinion on the relevant resolutions of the International Conferences of the Red Cross and on Article 3 common to the four Geneva Conventions, it pointed out

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20 Minutes of the meeting of the Legal Commission held on 22 January 1953 and minutes of the plenary session of the Committee held on the same day – ICRC Archives, A PV. See also: Jacques Moreillon, op. cit., pp. 120–122.
21 See pp. 541 ff. below.
22 Minutes of the meeting of the Presidential Council held on 26 March 1953 – ICRC Archives, A PV.
24 Minutes of the meeting of the Legal Commission held on 4 June 1953 – ICRC Archives, A PV.
25 The list of experts can be found in ICRC Annual Report 1953, p. 67, and in «Commission of Experts for the Examination of the Question of Assistance to Political Detainees», English Supplement, RICR, Vol. VI, No. 7, July 1953, p. 124. The Commission was chaired by Prof. Maurice Bourquin of the University of Geneva and the Graduate Institute of International Studies in Geneva.
26 Namely, Resolution XIV of the 10th International Conference of the Red Cross (Geneva, 1921), Resolution XIV of the 16th International Conference of the Red Cross (London, 1938) and Resolution XX of the 17th International Conference of the Red Cross (Stockholm, 1948). The
that this role fell to the Red Cross not only during international armed conflict and civil war or internal disturbances – but also wherever individuals suffered as a result of their political beliefs, either at the national or the international level.\(^\text{27}\)

The Commission of Experts thus went beyond the concept of internal disturbances to encompass other situations in which States could resort to preventive measures of repression,\(^\text{28}\) such as administrative detention, arrest for politically motivated acts or conviction of such offences.\(^\text{29}\) The Commission deliberately refrained, however, from defining the notion of “political detainee” in order not to hinder the ICRC’s work by placing any restrictions on it.

As for the general principles underpinning ICRC action in situations not expressly covered by existing law, the Commission of Experts cited the Universal Declaration of Human Rights – pointing out that the successful protection of those rights in respect of political detainees depended upon the action of an impartial agency such as the ICRC. It further stated that the ICRC’s role was not to determine whether measures of detention were well founded but rather to ensure that humane treatment was accorded to persons against whom such measures were taken for political reasons.

In defining “humane treatment”, the Commission of Experts referred to Article 3 common to the four Geneva Conventions and to the relevant provisions of the Universal Declaration of Human Rights. It also cited the final paragraph of Article 3, which states that: “the application of the preceding provisions shall not affect the legal status of the Parties to the conflict”. Since humanitarian action did not alter the legal relations existing between an individual and the detaining power, no valid objection could be made by the authorities to efforts undertaken by an impartial relief agency to ensure that political detainees were treated humanely.

As for the basic rights to which political detainees should be entitled, the Commission of Experts cited those specifically held up by the ICRC as minimum standards, namely the right to:

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\(^{28}\) Minutes of the second meeting of the Commission of Experts, D 287/2 – ICRC Archives, B AG 225 000-06.02.

\(^{29}\) Minutes of the fourth meeting of the Commission of Experts, D 287/4 – ICRC Archives, B AG 225 000-06.02.
The Commission considered that, “in view of the present state of affairs”, it could not recommend the adoption of an international convention designed to give practical effect to its recommendations.30 This was an oblique reference to the US government’s refusal – on the pretext that the world was not ready for it – to approve a draft convention put forward in May 1953 by the UN Commission on Human Rights in application of the Universal Declaration.31 Nor did the Commission of Experts recommend a declaration by governments. Instead, it presented its conclusions in the form of a report,32 which it hoped would lend support to the ICRC’s efforts to assist political detainees.33 The ICRC endorsed the report and sent copies to governments, National Red Cross Societies and its field delegations.34 The report was also published in the RICR35 and in the English Supplement to that journal.36

In June 1954, according to the ICRC,37 the report proved instrumental in facilitating its representations to the Guatemalan government and the Guatemalan Red Cross during its activities in the country.38

Discussions resume on internal disturbances

31 Minutes of the first meeting of the Commission of Experts, D 287 – ICRC Archives, B AG 225 000-006.02 and minutes of the meeting of the Legal Commission held on 16 April 1953 – ICRC Archives, A PV.
32 The report was drafted by Prof. Gilbert Gidel, president of the Curatorium of The Hague Academy of International Law.
33 Minutes of the fourth meeting of the Commission of Experts, D 287/4, op. cit.
34 Minutes of the working session of the Committee held on 9 July 1953 – ICRC Archives, A PV.
Letters of 6 August 1953 from the ICRC to the States party to the Geneva Conventions and to the National Red Cross Societies, and letters of 14 July 1953 from the ICRC to its delegations – ICRC Archives, B AG 225 000-007.02.04.
37 Letter of 30 September 1954 from P. Ruegger to the president of the League, E. Sandström – ICRC Archives, B AG 225 000.
38 See pp. 620 ff. below.
a humanitarian point of view, the ICRC ran into a wall of resistance founded on
the principle of national sovereignty, and it struggled to gain a footing.\textsuperscript{40} Article 3
common to the four Geneva Conventions entitled it to offer its services in the event
of “armed conflict not of an international character”, but governments facing riots
or rebellions did not view such situations as coming under that article. This was true
even where governments resorted to means of repression that were tantamount to full-
fledged military operations, involving armed combat, bombardment, arrests, intern-
ment and displaced people.\textsuperscript{41}

President Ruegger thought that the time had come for the ICRC to make public
the policy guidelines that it had adopted in January 1953. However, some members
of the Committee felt that these guidelines should first be reviewed, as they were
partially obsolete, especially regarding National Red Cross Societies, which were
generally reticent to take action. It might be more effective to approach governments
directly and seek to persuade them that it was in their interest to allow the ICRC to
discharge its humanitarian mandate in the event of internal strife.

To this end, the ICRC president proposed setting up a new commission of experts,
similar to the one that had been appointed to study the problem of political detainees,
in order to define, in the light of common Article 3, the ICRC’s scope of action in
connection with internal disturbances, and the principles that should apply thereto.
He believed that the influence and authority of expert opinion could help the ICRC
gain greater acceptance of its role during internal disturbances.\textsuperscript{42} However, several
members of the Committee preferred to leave the convening of such a commission to
a time when the ICRC was not facing an immediate crisis and to begin by putting the
1953 guidelines to the test. Others, including the chairman of the Legal Commission,
Léopold Boissier, felt on the contrary that there were “principles of customary law that
the Committee had a duty to defend and could invoke to pursue its pioneering role
in the humanitarian field whatever the circumstances. By convening a commission of
experts immediately, despite the obvious risks (...) the Committee had an opportunity
to strengthen a cause that it had espoused and that needed constant championing in
order to ensure ever better respect and protection for human life.”\textsuperscript{43}

The ICRC eventually approved the idea of convening a second commission
of experts and agreed to draft “general guidelines for approaching individuals and
authorities – in a particular case – about the possibility of ICRC action in connection
with internal disturbances”.\textsuperscript{44}

\textsuperscript{40} In August 1955, for example, the British authorities and the British Red Cross rejected the ICRC’s offer
to send a delegate to Kenya to visit persons detained in connection with the events occurring there.
\textsuperscript{41} Minutes of the plenary session of the Committee held on 2 December 1954. Note SP 29 of
18 January 1955 by H. Courser submitted to the General Affairs Group at its meeting held on
27 January 1955 – ICRC Archives, A PV. Letter of 4 July 1955 from the ICRC president to the
Standing Commission of the International Red Cross – ICRC Archives, B AG 225 000-008.
\textsuperscript{42} Minutes of the plenary session of the Committee held on 2 December 1954, op. cit.
\textsuperscript{43} Ibid.
\textsuperscript{44} Ibid.
Memorandum on internal disturbances

Shortly thereafter, the ICRC adopted a memorandum on internal disturbances that was to form the basis for meetings, in Paris and London, to discuss events unfolding in Kenya and in North Africa.\footnote{Minutes of the meeting of the Presidential Council held on 16 December 1954 – ICRC Archives, A PV.}

In the memorandum, the ICRC emphasized that its activities had no legal effect whatsoever and that it did not pass judgement on the reasons for measures taken by the authorities to ensure or restore law and order. It pointed out that it was preferable for the organization to step in early, as soon as disturbances broke out, rather than later, once the violence had mounted. Its presence tended to have a calming effect\footnote{Such was the case in Bengal, see pp. 364 ff. below.} since the aim of its work was to alleviate human suffering. Moreover, its activities did not involve any kind of inquiry, they could be carried out in all discretion and they did not imply recognition, legal or otherwise, of the groups being assisted. The ICRC merely visited the places where persons were being held in connection with the strife, provided them with material and moral aid, compiled lists of names and facilitated the exchange of family news. If necessary, it assisted families who had lost their breadwinners.

The memorandum further stated that, while cooperation with the Red Cross Society of the country in question was always desirable, the latter was often viewed by detainees as being in league with the government rather than acting as a strictly neutral and impartial body.

Lastly, the memorandum pointed out that, wherever a state of emergency or exception was declared, thereby suspending certain laws, “this [could not] be allowed to undermine basic legal guarantees or essential humanitarian principles, such as the humane treatment of the wounded and of detainees, the prohibition of corporal punishment and of torture of any kind, and respect for the principle of individual responsibility (hence the exclusion of collective punishment and reprisals)”\footnote{Memorandum approved by the Presidential Council at its meeting held on 16 December 1954 – ICRC Archives, B AG 225 000-00.02. A revised and abridged version of this text, dated 31 December 1954, contains all its essential points – ICRC Archives, B AG 200 004-001. See also: Jacques Moreillon, \textit{op. cit.}, pp. 133–134.}

Second commission of experts

In order to set up a commission of experts on internal disturbances, the ICRC decided, in view of the similarities between this issue and that of assistance for political detainees, to call on the same experts as it had in 1953. However, this time it expanded on the membership to ensure that all continents were represented. One similarity was the fact that both issues involved relations between States and their nationals.\footnote{Minutes of the plenary session of the Committee held on 3 February 1955 and preparatory document SP 34 – ICRC Archives, A PV.}
The Commission of Experts for the Study of the Question of the Application of Humanitarian Principles in the Event of Internal Disturbances met at ICRC headquarters in Geneva from 8 to 10 October 1955. It was made up of 13 experts from 12 different countries. The same ICRC representatives were present as those who had attended the meetings of the Commission of Experts for the Examination of the Question of Assistance to Political Detainees.

In its preparatory document, the ICRC asked the Commission of Experts for internal disturbances to examine the following four questions:

- Is it possible to define the concept of “armed conflict” in such a way as to determine precisely at what point Article 3 of the Fourth Geneva Convention of 1949 becomes applicable, under humanitarian law, to internal disturbances?

- In cases where Article 3 is deemed non-applicable under humanitarian law, is it consistent with the interests of humanity and the standards of civilization for the safeguards set out in the Fourth Convention nevertheless to be applied, in particular towards persons (nationals of the country or its territories) detained by their own governments for political reasons?

- Would not the International Committee be justified, by virtue of its traditions, the Statutes of the International Red Cross and its own Statutes, in offering its services to the governments responsible for law and order in such circumstances?

- What conditions should be met for the ICRC to take action and what should be the limits of such action?

With regard to the first question, the Commission of Experts deemed that internal disturbances did not come within the meaning of Article 3. However, as such situations were increasingly frequent, it was important to ensure the application, insofar as possible, of the humanitarian principles enshrined in the Geneva Conventions.

As for the second question, the Commission replied without hesitation in the affirmative, stating that to uphold humanitarian safeguards came well within the mandate of the Red Cross. In support of this opinion, the Commission cited Resolution XIV of the 10th International Conference of the Red Cross (1921), the preambles to the Hague Conventions of 1899 and 1907 on the laws and customs of war, the 1948 Universal

49 Belgium, France, Germany (Federal Republic of), India, Iran, Italy, Mexico, Spain, Sweden, Switzerland, Turkey and Venezuela. The Commission of Experts was chaired by Prof. W.E. Rappard of the University of Geneva and, as for the first Commission, the rapporteur was Prof. G. Gidel. The ICRC had invited a Soviet expert to take part but no reply was found in the ICRC’s files – ICRC Archives, B AG 225 000-009.


51 «[T]he High Contracting Parties deem it expedient to declare that, in cases not included in the Regulations adopted by them, the inhabitants and the belligerents remain under the protection

Concerning the last two questions, the Commission of Experts considered that the ICRC had a right to base its action not only on its Statutes and on those of the International Red Cross but also on its right of humanitarian initiative expressly set out in the four Geneva Conventions (Articles 9/9/9/10, respectively) and on common Article 3. In that light, the Commission found it difficult to see what objections could possibly be raised against ICRC action in connection with internal disturbances, provided that such action remained strictly within the humanitarian sphere.

After stating that humanitarian action had no impact on the legal status of its beneficiaries, the Commission stressed that full respect should be accorded to humanitarian principles not only by governments but also by all other parties to internal strife. It further insisted on compliance with the minimum standards laid down in Article 3 and with the provisions of Articles 33 and 34 of the Fourth Geneva Convention.

The Commission dismissed the idea of examining the distribution of responsibilities between National Societies and the ICRC, owing to the very different types of relationship that could exist between a country’s government and its National Society.

Overall, the report issued by the second Commission of Experts did little more than reiterate the conclusions of the first Commission and confirm the main points set out in the ICRC’s memorandum of December 1954. President Ruegger nonetheless considered the report useful for future action and had it forwarded to governments and National Red Cross Societies.

In fact, the principles set forth in the report were used to guide the ICRC’s action in connection with events in North Africa and Cyprus.

and the rule of the principles of the law of nations, as they result from the usages established among civilized peoples, from the laws of humanity, and the dictates of the public conscience.» Preamble, 1907 Hague Convention.

See pp. 250 ff. above.

Art. 33 stipulates that: «No protected person may be punished for an offence he or she has not personally committed. Collective penalties and likewise all measures of intimidation or of terrorism are prohibited. Pillage is prohibited. Reprisals against protected persons and their property are prohibited.» Art. 34 states that: «The taking of hostages is prohibited.»


Minutes of the plenary session of the Committee held on 13 October 1955 and its annex SP 78, and minutes of the meeting of the Legal Commission held on 9 November 1955 – ICRC Archives, A PV.

Conclusion

The conclusions reached by the two commissions of experts in 1953 and 1955, combined with its own experience, enabled the ICRC to hone its guidelines on the questions of internal disturbances and political detainees, while providing greater legitimacy to its offers of services. The process that brought about these changes illustrates the ongoing interaction between the ICRC’s work, the evolution of its policies and the development of international humanitarian law.

The 1950s thus saw the veritable launch of the ICRC’s activities for political detainees⁵⁸ – despite some initial stumbling owing to its trial-and-error approach – and the adoption of the organization’s first policy guidelines on the matter.⁵⁹

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⁵⁹ The ICRC’s activities for political detainees are described on pp. 539 ff. below.
PART IV
THE ICRC AND THE NEW CONFLICTS

After the end of the Second World War, the ICRC was called upon to provide its services in the conflicts that accompanied or resulted from decolonization: in Indonesia (where the struggle for independence was followed shortly after by an uprising in the South Moluccas); in Indochina; on the Indian subcontinent (the Kashmir conflict and other communal unrest caused by the partition of India); and in Palestine (the Jewish-Arab Civil War followed by the first conflict between Israel and the Arab countries).

The ICRC was also active during the Korean War, the first conflict of international scope after the Second World War.

All of these contexts are the subject of specific chapters, each with its own historical introduction.
CHAPTER 9

Indonesia

Historical background

The end of the Second World War and the proclamation of the Republic of Indonesia

After the German armed forces occupied the Netherlands in May 1940, the Dutch East Indies\(^1\) remained under the authority of the Dutch government in exile in London. Britain had declared war on Japan in December 1941, at the start of military operations in the Pacific.

In March 1942, most of the Dutch East Indies was overrun by the Japanese armed forces and placed under military administration. Dutch citizens were interned in camps, while Indonesian nationalist leaders, such as Achmed Sukarno and Muhammad Hatta, then in prison or in exile, were released. Many of the nationalists agreed to cooperate with the Japanese, hoping thereby to further their struggle for independence. They managed to establish a corps of volunteers, who were to form the nucleus of the future Indonesian National Army. In the last year of the Second World War, the Japanese government, fearing that Indonesia would return to the Western fold, adopted a series of measures to prepare the country for independence. The atomic bombing of Hiroshima and Nagasaki precipitated events, however, and the Republic of Indonesia was proclaimed two days after the Japanese surrender on 17 August 1945. Sukarno became the president and Hatta the vice-president of the new Republic. They immediately formed a government and set about organizing a civil administration and a national army in the territories under their control in Java and Sumatra.

It fell to the Allied South-East Asia Command (SEAC) to take the surrender of Japan in the Dutch East Indies on 15 August 1945. It proceeded to release the Allied prisoners of war and civilian internees and group together and repatriate the Japanese troops. Not having enough men to occupy the whole Indonesian archipelago, the Supreme Allied Commander, Admiral Lord Mountbatten, asked the Australian command to take charge of Borneo and the eastern part of the archipelago, namely

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\(^1\) In 1940, the Dutch East Indies had 70.5 million inhabitants, including one million Chinese and 250,000 Dutch. See Ian C.B. Dear and Michael R.D. Foot (eds), *The Oxford Companion of the Second World War*, Oxford University Press, Oxford/New York, 1995.
13. Java and Sumatra

14. The Moluccas Archipelago and Celebes
Celebes, the Moluccas and the Dutch territories of New Guinea and Timor. The SEAC, meanwhile, retained responsibility for Sumatra and Java, the two most populous islands in the archipelago, as well as Bali and Lombok.

When they arrived in Jakarta in September 1945, the British found that a government had already been set up, that of the Republic of Indonesia.

However, since 1942 the Dutch government in exile in London had not ceased to assert its sovereignty over Indonesia. Dutch troops, incorporated into the American and Australian forces, took part in reconquering some beachheads in New Guinea, the Moluccas and Borneo, and Dutch officials within the Allied military authorities restored civil administrative services there. On 14 August 1945, the British and Dutch signed an agreement in London that paved the way for the restoration of Dutch control over the Dutch East Indies in two stages. During the first — military — stage, the SEAC would be vested with full power and would be assisted by Dutch officials, who would be in charge of civil administration. In a second stage, the Dutch government would recover full responsibility for the archipelago, after the necessary Dutch troops had arrived.

The commander-in-chief of the British forces in the Dutch East Indies, Sir Philip Christison, thus found himself caught between the conflicting demands of his Dutch allies and the Indonesian nationalists. The situation proved all the more delicate because, having been released following the Japanese capitulation, all Dutch, European and Indo-European nationals living in the territories controlled by the new Republic were again interned in October 1945. General Christison made it clear at the outset that his mission was to liberate the prisoners and internees and disarm the Japanese, but that the Indonesian government would not be expelled and no Indonesian forces would be disarmed. He asked the Indonesian leaders to help him in his task, called on the government in The Hague to reach a decision on the future status of Indonesia and urged both sides to engage in direct talks.

The government of the Republic of Indonesia had its headquarters in Jogjakarta, in central Java, but the prime minister and some ministries, as well as the Red Cross organization of the Republic of Indonesia (hereafter the Indonesian Red Cross organization), remained in Batavia where they had their offices and where they were let be.

There ensued a confused period which lasted four years — from November 1945, when the first talks were held, until December 1949, when the Netherlands recognized Indonesian independence — during which negotiations and fighting alternated.

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2 Java then had 45 million inhabitants and Sumatra 10 million, according to the ICRC delegate Charles Helbling in his general report on his work in Batavia from December 1945 to September 1946, document dated 5 March 1947, Cairo — ICRC Archives, ex 240(1) B G 3/72 II.

3 The capital of the Dutch East Indies, Batavia, was renamed Jakarta in 1942. It kept this name until 1945, when it reverted to its old name after the Japanese surrender through to the independence of Indonesia at the end of 1949.

4 General report by Charles Helbling on his work in Batavia, cited above.
From the start of the Dutch-Indonesian negotiations to the Linggajati Agreement

The talks began on a bad footing as the Dutch government’s proposals, announced in early November 1945, granted only partial autonomy to the Dutch East Indies. This set off a wave of hostility among Indonesian nationalists, giving rise to fears for the well-being of Dutch civilian internees. The negotiations were quickly broken off and violence broke out, as Indonesian armed groups clashed with British and Dutch forces. Fearing a Dutch attack on Batavia, the government of the Republic of Indonesia withdrew to Jogjakarta.

Talks resumed in April 1946, under the auspices of the British, who had offered their good offices in this respect.

In the meantime, having been unable to regain a foothold in Java and Sumatra, the Dutch command, with the agreement of the Australian command, reoccupied Dutch Borneo (Kalimantan), Celebes, the Moluccas and the Lesser Sunda Islands. It set up a headquarters in Macassar, on Celebes, and began a process of political reorganization aimed at creating states (Negara) as part of a future Indonesian federation. In mid-July 1946, the British transferred full responsibility for all territories other than Java and Sumatra to the Dutch.

The talks resulted in the signing of the Linggajati Agreement\(^5\) on 15 November 1946. Under this agreement, the Netherlands recognized the de facto authority of the Republic of Indonesia over Java and Sumatra and agreed that the areas controlled by the Allied forces on these two islands should be incorporated into the territory of the Republic. The two governments undertook to work together to set up a democratic State with a federal structure, the United States of Indonesia, made up of the Republic of Indonesia, Borneo and the Great East.\(^6\) However, the accord also stipulated that the population of any territory could decide not to join the United States of Indonesia and instead define the kind of relations it wished to have with the federal State and with the Kingdom of the Netherlands.

After this, the British pulled their troops out of Java and Sumatra on 30 November 1946, leaving the Dutch and Indonesians of the Republic to work things out face to face.

Despite its ratification on 27 March 1947, the Linggajati Agreement soon gave rise to serious differences of interpretation between the two parties. In reality, it opened the way for the break-up of the Dutch East Indies and enabled the Dutch government to foster the creation of a maximum number of small States so as to weaken or isolate the Republic of Indonesia. The negotiations were broken off on 18 July.

\(^5\) Named after a town on the northern coast of Java.

\(^6\) *Groot Oost*, the name given by the Dutch to the islands east of Java.
The first “police operation” and the Renville Agreement

On 21 July 1947, the government of the Netherlands launched what it called a “police operation”. Within a few days, Dutch troops had seized control of large parts of Java and Sumatra.

This operation provoked heated international reactions. India and Australia brought the matter before the UN Security Council, which on 1 August exhorted the parties to cease hostilities and settle their dispute by peaceful means. On 4 August, the Netherlands and the Republic of Indonesia accepted the UN injunction, and the Dutch troops ended their offensive.

Pursuing its efforts to weaken the Republic, the Dutch government established autonomous political entities in the newly conquered territories in western Java and eastern Sumatra.

Negotiations resumed in mid-November 1947 under the auspices of a United Nations Committee of Good Offices, presided by an American and comprising, in addition, one Australian and one Belgian. The meetings were held on board an American vessel anchored off Batavia, the Renville, and ended on 17 January 1948. The resulting Renville Agreement, which confirmed the military truce along the cease-fire line of 4 August 1947, constituted a compromise that was even more favourable to the Netherlands than the Linggajati Agreement. The Republic was thus now just one state among many that were to make up the United States of Indonesia. Plebiscites were also to be held in Java, Madura and Sumatra to determine whether they wished to be part of the Republic of Indonesia or not.

The Madiun revolt and the second “police operation”

Following the Renville Agreement, the creation of the United States of Indonesia continued according to Dutch plans while the Republic, sidelined from the process, was put under economic blockade. This turn of events exacerbated anti-colonial sentiment, which the Indonesian Communist Party (PKI) exploited to link the struggle for national independence to the fight against American imperialism, spearheaded by the Soviet Union, and thereby to bolster the party’s influence. On 18 September 1948, armed units of the PKI and Pesindo (Indonesian Socialist Youth) rose up and seized Madiun in eastern Java. The national army of the Republic of Indonesia reacted immediately and took back the town two days later. The rebel leaders were captured or killed.

This episode had the effect of reversing the position of the United States government which, favourably impressed by the Republic’s reaction, and now realizing that the Dutch demands boosted the rise of Communism, insisted on an early resumption of negotiations. These foundered, however, on the question of the powers of the transitional federal government, which was to be set up before 1 January 1949, and those of the representative of the Dutch Crown.

On 17 December 1948, the Dutch gave the government of the Republic of Indonesia an 18-hour ultimatum to accept all their conditions. After receiving no
reply, the Dutch army launched an air operation against Jogjakarta on 19 December and captured Sukarno, Hatta and other ministers, whom it deported to Bangka Island, off the east coast of Sumatra. In a few days it had occupied the territory that was still under the Republic’s control in Java and Sumatra.

The creation of the United States of Indonesia and independence

Despite the initial gains, this second “police operation” turned out to be counter-productive for the Netherlands. Their troops faced strong resistance from the Indonesian forces in Java and Sumatra. Moreover, internationally, a large number of States condemned the Dutch action and took the side of the Republic. After repeated injunctions from the UN Security Council, the Netherlands ceased hostilities after several weeks and returned to the negotiating table in April 1949. This led, on 7 May, to the release of the Republic’s leaders, the restoration of the government in Jogjakarta and the recognition of the Republic of Indonesia as a member state of the United States of Indonesia. In return, the Republic agreed to abandon guerrilla warfare and to take part in meetings to prepare for the transfer of sovereignty. This process resulted in the creation, on 2 November 1949, of a Republic of the United States of Indonesia, covering the entire territory of the former Dutch East Indies – that is, the Republic of Indonesia, as established in 1945, and 15 other federal states or autonomous regions – with the exception of Western New Guinea, which was to be the subject of subsequent negotiations. The United States of Indonesia were to remain linked to the former colonial power through a Netherlands-Indonesian Union, which was, however, never implemented and was officially dissolved in 1954.

On 27 December 1949, the Netherlands transferred sovereignty to an Indonesian federal government already dominated by the Republic. In the meantime, as a result of the second Dutch operation, the leaders of the 15 other Indonesian political entities had gone over to the side of the Republic and agreed to create a federal government completely independent of the Netherlands. In mid-December, Sukarno was elected president of the United States of Indonesia and formed a government led by Hatta a few days later.

The unitary Republic of Indonesia and the South Moluccas insurgency

The Jakarta government, not wanting to have a State structure designed by the former colonial power and seeking to forestall a possible dismembering of the country at a later date, immediately set about turning Indonesia into a unitary State. On 17 August 1950, the United States of Indonesia was replaced by the Republic of Indonesia.

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The federal structure collapsed without much resistance in Java and Sumatra, apart from a revolt in western Java supported by Dutch units of the former Dutch colonial army – the “Prince Justice Legion” of Captain Westerling – which was quickly put down in early 1950.

The situation became more serious, however, when Jakarta decided to rein in the Federal State of Eastern Indonesia. A first uprising broke out in Macassar, on Celebes, in April 1950. Quickly repressed, it was immediately followed by an insurgency in the South Moluccas, where members of the Christian population, many of whom were pro-Dutch, proclaimed the “Republic of the South Moluccas” in Amboina in May 1950. The movement was broken up at the end of the year, although some resistance continued until 1952.8

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The ICRC played an active role first during the struggle for Indonesian independence and then during the South Moluccas insurgency. At the same time, it continued its activities for Japanese and German soldiers and German civilians who had fallen into Allied hands in the Dutch East Indies at the end of the Second World War.9

The struggle for independence

Beginnings and framework of ICRC action

During the Japanese occupation, the ICRC had been unable to obtain accreditation for its resident delegates in the Dutch East Indies.10 Japan had moreover forbidden them from conducting any activities on behalf of Allied prisoners of war and civilian internees, on pain of death.11

After the Japanese surrender, the resident delegates in Java and Sumatra regained their freedom of action and tried to help these people during the chaotic weeks that preceded the arrival of the Allied troops.

8 In addition to the reports by ICRC delegates in Indonesia, this introduction was based mainly on the work by Françoise Cayrac-Blanchard et al., L’Asie du Sud-Est, Vol. 1, Sirey, Paris, 1970.
10 These were Swiss nationals already living in the Dutch East Indies whom the ICRC had appointed as representatives at the beginning of the hostilities in the Pacific. They had another main activity and represented the ICRC on a part-time and voluntary basis, which differentiated them from delegates who were in the full employ and pay of the ICRC. Before the Japanese occupation, the ICRC’s resident delegates in the Dutch East Indies had interceded on behalf of German and Italian nationals interned by the Dutch government.
The ICRC in Geneva, however, remained without news of its resident delegates, as communications with the Dutch East Indies had not yet been restored. At the urging of the Netherlands Red Cross and concerned about the fate of Allied prisoners and the Indonesian civilian population, the ICRC tried to send a support team to Batavia. Apart from a brief visit by a delegate in October, however, it did not succeed in this until mid-December 1945, because of the difficulty in finding people already in the region who were available or, more generally, who had the necessary skills.\footnote{Annex to the report of 5 November 1945 by D. Mouravieff on his mission to The Hague, end October 1945 – ICRC Archives, ex 240 (3) B G 3/72. \textit{RICH}, No. 322, October 1945, pp. 773–774.}

Meanwhile, the British and Dutch had gained a foothold in Java and Sumatra, and the situation had changed. The main humanitarian problems now stemmed from the conflict between the Dutch government and the new Republic of Indonesia and the resulting climate of instability and violence.

In the end the ICRC decided to send two delegates from Geneva. Before they set off in late November 1945, the ICRC briefed them fully on its approach with regard to break-away governments and conflicting parties. Thus, based on the Red Cross principles of neutrality and independence, the ICRC takes account solely of the needs resulting from the situation of victims of war. It may therefore have to establish contact with belligerent groups and their Red Cross organizations, whether or not these groups are recognized \textit{de jure} or \textit{de facto} as sovereign States; and no one can infer from this that the ICRC is taking a political stand. However, it acts only in its own – humanitarian – field. The ICRC thus authorized its delegates to offer its services as a neutral intermediary between the parties in the Dutch East Indies and to relay any proposals of a humanitarian nature that could improve the lot of the victims.\footnote{Note of 29 November 1945 from F. Siordet to Dr Descoëndres and C. Helbling – ICRC Archives, ex 240 (2) B G 3/72.}

This was the first time that the ICRC was dealing with a fight against colonial domination, at a time when Article 3 common to the four Geneva Conventions of 1949, which governs non-international armed conflicts, had not yet been adopted, and nor, \textit{a fortiori}, had Article 1 of Additional Protocol I of 1977.\footnote{Paragraph 4 of this article equates armed conflicts in which peoples are fighting against colonial domination and alien occupation with international armed conflicts.} The ICRC therefore acted on the basis of its right of humanitarian initiative, in accordance with its own Statutes and those of the International Red Cross of 1928, and the resolutions of the International Conferences of the Red Cross.\footnote{The first resolution adopted on the action of the Red Cross in case of civil war was resolution 14 of the 10th International Conference of the Red Cross, which was held in Geneva in 1921; see footnote 26, p. 284 above. See Jacques Moreillon, \textit{Le Comité international de la Croix-Rouge et la protection des détenus politiques}, Institut Henry-Dunant, Editions de l’Age d’Homme, Lausanne, 1973, pp. 52 ff. François Bugnion, \textit{The International Committee of the Red Cross and the Protection of War Victims}, ICRC/Macmillan, Geneva/Oxford, 2003, pp. 258 ff.}
During this first phase, the ICRC’s activities evolved in line with the military and political situation. The delegates interceded first on behalf of Dutch and Indo-Dutch civilians interned in the territories controlled by the Republic of Indonesia. After the evacuation of the internees and the first “police operation”, they came to the aid of the Indonesian civilian population and Chinese civilians who were displaced within the territories of the Republic. Meanwhile, after the second “police operation”, they concerned themselves with captured combatants, mainly in Dutch hands. As long as communications were interrupted between the Dutch-controlled territories and the Republic of Indonesia, they also helped members of dispersed families to exchange news.

The fate of Dutch and Indo-Dutch civilian internees

When the two ICRC delegates, Dr Pierre Desœuxdres and Charles Helbling, arrived in Batavia on 16 December 1945, Java was in the throes of the insurgency. The Republic of Indonesia had gained control of most of the island except for the main centres, which were connected only by air or by sea. Thus Batavia, the capital, was in the hands of the Allies. As it was open to the sea and had an airport, it could communicate with the outside world, but it was cut off from the hinterland. Alarming rumours abounded about the fate of tens of thousands of Europeans and Indo-Europeans, mainly Dutch nationals, whom the Indonesians had interned or placed under house arrest, and about whom there was no news. The plight of the Dutch of European origin was all the more worrying, as they had already endured years of internment under Japanese occupation, which the Indo-Dutch generally had not.

A similar situation reigned in Sumatra. However, it was less critical from a humanitarian point of view, as all the Dutch and Indo-Dutch had already been evacuated to the areas controlled by the Allies.17

Given the anxiety in Batavia about the fate of the Dutch and Indo-Dutch civilian internees, the delegates decided that their most urgent task was to establish contact with them. Between 17 and 20 December 1945, they held a series of meetings with the highest British and Dutch authorities, both military and civil, with representatives of the British and Netherlands Red Cross Societies and, with the support of General Christison, with the Indonesian Red Cross organization. As Sukarno and his ministers were then in the Javanese hinterland, the delegates had to wait until January 1946 before they could meet the Indonesian prime minister and the health minister in Batavia.18

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16 Dr Pierre Desœuxdres had already carried out assignments for the ICRC in Germany and Egypt. Charles A. Helbling, a Swiss national, had been living in Sumatra for 18 years and spoke Dutch and Malay.
17 Notes of 22 December 1945 and 27 January 1946 from Dr Desœuxdres to the ICRC. General report by C. Helbling on his work in Batavia, cited above – ICRC Archives, ex 240 (2) B G 3/72.
18 Notes of 22 December 1945 and 27 January 1946 by Dr Desœuxdres and general report by C. Helbling of 5 March 1947, cited above.
Following these initial contacts, the Indonesian authorities agreed:

- in principle to apply to civilian internees the 1929 Geneva Convention relative to the Treatment of Prisoners of War;
- to hand over lists of all the internment camps in Java immediately, giving full details of their location and the number of inmates;
- to allow the internees to write Red Cross messages to their families;
- to quickly organize a visit to the camps by the delegates and draw up lists with the names of all the internees.

In return, the delegates sought to visit the Indonesians captured by the Allies, but without success, as the British and Dutch authorities considered any Indonesians captured with weapons in their hands to be rebels and not prisoners of war. This question was raised again only after the first “police operation” waged by the Dutch in late July and early August 1947.

Visits to camps

The ICRC delegates carried out a first series of visits to camps in the Javanese hinterland between 2 and 16 February 1946. They were given access to 51 camps and four hospitals holding some 21,000 civilian internees, including 16,000 women and children, out of an overall total of 35,000 internees. During the first two months of internment, living conditions had often been harsh, the delegates were told. The men had been held in prisons and the women in very basic camps. After some adjustments, the men had been transferred to camps and conditions had gradually improved. Considering the overall situation in the Indonesian zone – which was completely cut off from the outside world and receiving no imports, meaning a shortage of textiles, medicines and means of transport – the delegates felt that the camps visited were satisfactory, barring some exceptions. They noted that “clothes and shoes are rare and in pitiful condition, there are very few medicines, almost no distractions, men and women alike often have to sleep on the ground”, but “hygiene conditions are more or less satisfactory, the internees are generally healthy, there are no epidemics, and the food, while not great is enough to live on healthily”. Each camp was the subject of a separate report, which the ICRC sent to the detaining authorities and the internees’ countries of origin.

The delegates also received lists of the names of the internees in all the camps visited.

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20 Note of 18 February 1946 by Dr Descœudres – ICRC Archives, ex 240 (2) B G 3/72. RICR, No. 328, April 1946, pp. 349–354.

21 Idem.
9. INDONESIA

On their return to Batavia, the delegates were impatiently awaited by the Dutch and British authorities and bombarded by the press, for they were bringing back the first credible news in months about the fate of the internees. 22 The letter sent by Joan Vickers, a British official at the SEAC Red Cross 23 in the Dutch East Indies, to Charles Helbling at the end of his assignment testifies to the importance of the ICRC’s work during this first phase. “The visits paid by you and your colleagues to the camps,” she wrote, “especially the first one did a great deal to eliminate the fears of the Dutch concerning their relatives. It proved to the people in the camps that interest was still being taken in them, that they were not forgotten people, and it gave the Indonesians a better conception of what was required of them by International Conventions.” 24

The ICRC delegates carried out five more rounds of visits in the Javanese hinterland, going to some camps two or three times, before the evacuation of all the internees to the Dutch zones on 30 May 1947. As independent travel was impossible because of the instability and the shortage of transport, all their trips were arranged by the Indonesian Red Cross organization. They were also accompanied by Indonesian Red Cross representatives and the Indonesian authorities, and their convoy was protected by an armed escort. During their habitual stop-off in Jogjakarta on the way, they met with Vice-President Hatta, then also the chairman of the Indonesian Red Cross organization, and were received on several occasions by President Sukarno. They could thus convey their findings about the living conditions in the camps in person, and their requests were usually taken into account. 25

During a visit to Jombang prison in early June 1946, the ICRC delegate discovered that 114 internees were living in very poor conditions and that their health was suffering greatly as a result. As urgent action was needed, he took the initiative of offering not to make a written report to the Indonesian authorities, provided that the internees were immediately given assistance in the form of food, medicines, clothing and money, with the support of the Indonesian Red Cross organization. He also urged them to repatriate the internees as soon as their health permitted and apprised the Netherlands Red Cross orally of the situation. When several internees from Jombang arrived in Batavia 15 days later, they told him that conditions had improved immediately in all respects. 26

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22 *Idem.*

23 The SEAC Red Cross was the coordinating committee of the National Red Cross Societies of the Allied countries active in South-East Asia.


26 Notes of 18 and 19 June 1946 by C. Helbling and note of 30 June 1946 to him from the ICRC – ICRC Archives, ex 240 (2) B G 3/72.
Helbling, who took part in the first four rounds of visits, noted moreover that he never heard any internees complain of physical ill-treatment.\(^{27}\)

To improve the internees’ living conditions, the delegates also made arrangements for the delivery of relief. A first 50-tonne consignment, comprising food, medicines and cigarettes, left Batavia on 27 March 1946 for the 50 or so camps visited the previous month.\(^{28}\) It was soon followed by other deliveries.

The goods, provided by the Netherlands Red Cross, which had itself received part from the British Red Cross, were handed over by the ICRC to the Indonesian Red Cross organization, which could therefore accept them. Because of the transport problems and instability in the country’s hinterland, the Indonesian Red Cross took charge of conveying the relief to the camps, where ICRC delegates were present to monitor its distribution. As for the medical aid, the Indonesian Red Cross organization gave the equivalent value in cash to the internees, who thus obtained funds, while the Indonesian population gained access to medicines that had been sorely lacking since the Japanese occupation.\(^{29}\)

The delegation also transported large amounts of mail for the internees.

**Evacuation operations**

The evacuation of the civilian internees began on 1 May 1946, following an agreement between the British authorities and the Republic of Indonesia. Carried out by sea and by rail and, while the British were still present, by air, the operations were interrupted several times, depending on the progress of the political talks between the Dutch and Indonesians and the means of transport available. They ended on 30 May 1947 after the signing of the Linggajati Agreement. According to ICRC statistics, around 38,000 internees were evacuated, including some 1,000 nationals from countries other than the Netherlands.

The ICRC delegates, who alone knew the location of the camps and their surroundings, were able to advise the British authorities in drawing up the evacuation plans. They also used their influence with the Indonesian authorities to ensure that priority was given to the camps where living conditions were harshest and called for the resumption of operations whenever they were interrupted. The ICRC furthermore contributed to the actual evacuations, for instance by providing medical staff to accompany the convoys. Delegates were present on the evacuees’ arrival and could

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\(^{27}\) Report presented by C. Helbling on his return from the Dutch East Indies, at a working meeting held on 18 October 1946 at the ICRC – ICRC Archives, ex 240 (2) B G 3/72.

\(^{28}\) Note of 28 March 1946 by Dr Descœudres. On this first consignment, see also the note of 19 April 1946 by C. Helbling – ICRC Archives, ex 240 (2) B G 3/72.

therefore gather information on the impact of their visits to the camps. These proved to have given a boost both to the internees’ morale and their material situation.\footnote{Notes of 4, 5, and 21 May, 6, 17 and 19 June, 1 and 24 July 1946 by C. Helbling. Notes of 30 September, 10 November and 18 December 1946 by G.H. Schwarz. Notes of 29 March 1947 by E. Stutz and of 7 June 1947 by Dr W.O. Leutenegger – ICRC Archives, ex 240 (2) B G 3/72 and ex 240 (1) B G 3/72 II.}

Meanwhile, in mid-July 1946, the ICRC delegates visited the camp of Lawe Sigalagala in the Alas Valley, some 90 kilometres from Medan in northern Sumatra. About 1,000 people, mainly women and children connected to the Indonesian units of the former Dutch colonial army, were living there in the same buildings where they had previously been interned by the Japanese. Highly conflicting information circulated about this camp, which the delegates were able to visit thanks to the good offices of the British military authorities in Medan.

The main question, they realized, was to determine whether this really was an internment camp. Those living there had great freedom of movement, grew their own crops and were self-sustaining. But, because of the geographic location, it was almost impossible for them to leave without the help of the Indonesian authorities. Now, 200 to 300 of them, widows and children, wanted to be repatriated to their home islands or evacuated to other parts of Sumatra. However the Indonesian authorities kept on postponing the operation, saying they wanted to make sure beforehand that these people would not be worse off materially after their repatriation. The operation finally took place in November 1946.\footnote{Note of 22 July 1946 by C. Helbling. Note of 11 September 1946 to C. Helbling from the ICRC, and its annex. Note of 21 November 1946 by G.H. Schwarz. Note of 23 December 1946 by H. Lüthi – ICRC Archives, ex 240 (2) B G 3/72 and ex 240 (1) B G 3/72 II.}

As regards Indonesian civilians, the delegates concerned themselves with the living conditions of around 100,000 Javanese workers, whom the Japanese had transferred to other South-East Asian countries during the Second World War, following their repatriation, which began in 1946. On arrival in Batavia, they were lodged in a transit camp before being entrusted to the Indonesian Red Cross organization to be sent on to their various destinations. The delegates visited the camp and witnessed the arrival of about 10,000 people, as both the Dutch and Indonesian authorities had asked them to play the role of observer. They asked the Dutch authorities to make some improvements to the camp installations, as well as to the food and clothing given to the returnees.\footnote{Note of 6 June 1946 by C. Helbling and his report of 18 October 1946 upon his return from the Dutch East Indies – ICRC Archives, ex 240 (2) B G 3/72. Second Conference of Heads of Delegation in Europe with the Central Management, Geneva, 5–10 May 1947 – ICRC Archives, A PV. Report of the International Committee of the Red Cross on its activities during the Second World War (September 1, 1939–June 30, 1947), Vol. I, op. cit., p. 506.}

In early 1947, following the Linggajati Agreement and in anticipation of its implementation, the ICRC planned to close its delegation in Batavia. However, it postponed this at the request of the Netherlands Red Cross, which argued that the presence of a neutral intermediary was still necessary to handle questions regarding the Dutch
and Indo-Dutch civilian internees, as the Indonesian Red Cross organization would not deal directly with the Netherlands Red Cross. In June, once the internees had been evacuated, the ICRC again decided to close its delegation, impelled by its catastrophic financial situation at that time and the resulting shortage of delegates. Now the Dutch government asked it to reconsider, on the grounds that a large number of political prisoners were being held in prisons in the country’s interior.

Medical assistance for Indonesian civilians

While the ICRC was thinking of closing its delegation in Batavia, the Dutch launched their first “police operation”, on 21 July 1947.

Three days later, the ICRC delegation in Singapore received an urgent appeal from the Republic of Indonesia for medical assistance for the civilian victims of the hostilities in Java and Sumatra. The Indonesian authorities stressed that these people could not be reached via Dutch channels and wanted the relief to be sent through the intermediary and under the supervision of the ICRC. The British authorities approached the delegation with a similar request, while the Dutch authorities promised their support.

The ICRC in Geneva, meanwhile, was contacted by different National Red Cross Societies wishing to provide relief. It thus authorized its delegation in Singapore to offer its services as a neutral intermediary in the sending of relief for civilians, intended both for the Indonesian Red Cross organization and the Indonesian section of the Netherlands Red Cross. To underline its neutrality with respect to the two parties, it also gave the Singapore delegation the task of coordinating the operation while maintaining its delegation in Batavia.

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33 Summary of the meeting of the Delegations Commission held on 11 January 1947. Summary of the meeting held at the ICRC on 19 February 1947 between a representative of the Netherlands Red Cross and the ICRC. Letter of 7 March 1947 from the ICRC to the Netherlands Red Cross – ICRC Archives, ex 240 (1) B G 3/72 II.

34 This period also marked the end of the repatriation of German and Japanese prisoners of war from the Dutch East Indies.

35 After the departure of Dr Descœudres, sent to Australia in early May 1946, and then of Charles Hellbling in October 1946, no fewer than three people succeeded them on an interim and voluntary basis at the head of the delegation in Batavia, until June 1947. The delegation was furthermore assisted by local staff and by the ICRC’s resident delegates in Jember (Java) and Medan (Sumatra). Summary of the meeting of the Delegations Commission held on 11 June 1947. Letter of 11 June 1947 from Dr Leutenegger and letter of 16 June 1947 to the ICRC from the Dutch ambassador to Switzerland – ICRC Archives, A PV and ex 240 (1) B G 3/72 II.

Using British radio, the Singapore delegation made contact with the Indonesian Red Cross organization in Jogjakarta in order to obtain details on needs. It then informed the donors, coordinated the receipt of in-kind and cash donations, made purchases, chartered transport, applied for the necessary safe conducts from the Indonesian and Dutch authorities – in the latter case via the delegation in Batavia – and checked that the content of the relief consignments complied with the principles of the Red Cross. In accomplishing these different tasks, the delegation was assisted by Indonesian representatives and, above all, the British authorities in Singapore, which helped arrange transport and provided medicines from their own stocks at a low cost. The first donations came from the Australian Red Cross and other Australian associations, the Netherlands Red Cross, the Indonesian Red Cross organization, which had raised funds specially, and from various other fundraising campaigns in Malaysia and Singapore. In addition to providing medical supplies, the Indian Red Cross Society dispatched a team of three doctors and furnished the ICRC with an aircraft and crew for the first two flights to Jogjakarta.\footnote{Note of 12 August 1947 by H. Schweizer and its annexes, the appeal broadcast by radio on 7 August 1947 by the Indonesian Red Cross organization in Jogjakarta and the note of 7 August 1947 from H. Schweizer to Dr Leutenegger in Batavia. \textit{Report No. 2 on Indonesian Relief Action}, by H. Schweizer, undated – ICRC Archives, ex 243 (2) B G 3/78 II.}
The first flight took place on 26 August 1947 with, on board, an ICRC delegate, the Indian Red Cross medical team and over 1.2 tonnes of medical supplies. After taking off from Singapore, the aircraft landed first in Batavia, where its cargo was inspected by the Dutch customs authorities. It then set off for Jogjakarta, its destination, where the medicines were delivered to the Indonesian Red Cross organization. The delegate and the Indonesian Red Cross organization also exchanged family messages they had collected. On the way back, the aircraft touched down again in Batavia before returning to Singapore after a 3,000-kilometre round trip, which had lasted around 14 hours.39

Despite the various guarantees obtained, the ICRC delegate in Singapore had watched the aircraft take off at dawn with apprehension:

I had done all I could to ensure its safety and that of everyone on board, but I could not help feeling uneasy. Just a few weeks earlier a plane had been shot down. There were rumours that the heads of government of the Republic were desperately awaiting the arrival of a plane to take them to Bukit Tinggi, in Sumatra. The plane was loaded to maximum capacity. The idea that their relief would be inspected in Batavia clearly displeased the Indonesians. The Dutch, too, were liable to make difficulties. They [sic] would be flying over dangerous territory, parts of the country never reached either by the Dutch government or by the Republic, where an emergency landing could leave them at the mercy of a hostile population. But the plane took off, with the red crosses on its silver fuselage and its brave passengers: eight Indians, and Pfrunder, with his pipe, ready to face all the risks.

That night they were back. I could have jumped for joy.40

By 19 September, five flights had taken place to Jogjakarta, following a similar pattern, except that from the third flight the ICRC used the services of the British Royal Air Force (RAF).

From that date on, the Indonesian Red Cross organization requested that future shipments be sent to Bukittinggi, the capital of the Republic of Indonesia on the island of Sumatra. As the RAF was unable to provide an aircraft, the next flight only took place on 15 October with a Malayan Airways plane. On board were an ICRC delegate, three Egyptian Red Crescent doctors posted to the Republic in Sumatra and two tonnes of medicines for the Indonesian Red Cross. However, it was a hazardous journey because of the bad weather and the location of the aerodrome, and after that it was impossible to charter a new plane for this destination, as the pilots refused to land there. Subsequent deliveries to Sumatra were therefore made by boat from Singapore.

From 5 to 12 November, an ICRC delegate sailed up the Indragiri River to bring medical supplies to three population centres in the region. From 29 November to

40 Report No. 2 on Indonesian Relief Action, by H. Schweizer, cited above. Author’s translation.
5 December, most of the relief provided by the Egyptian Red Crescent was brought by boat up another river to Pakanbaru in central Sumatra and transported from there to Bukittinggi by road.\(^{41}\)

The sixth flight to Jogjakarta, on 9 February 1948, was given over to representatives of the Chinese Red Cross in the Republic of Indonesia, as the violence had taken a heavy toll on the Chinese community.\(^{42}\) The seventh and eighth flights took place on 5 March and 8 April respectively. Further relief shipments were organized later and transported by the United Nations Good Offices Commission, which by then was travelling regularly from Batavia to Jogjakarta.\(^{43}\)

In parallel to these relief deliveries for people living in the territories controlled by the Republic of Indonesia, five consignments were sent by boat from Singapore to Batavia between September 1947 and August 1948. They were intended mainly for Indonesians and Chinese in the territories administered by the Dutch authorities and were handed over to representatives of the Netherlands and Chinese Red Cross Societies in Batavia for distribution.\(^{44}\)

By the end of 1948 the ICRC had sent in total around 12 tonnes of relief for Indonesians and Chinese living in the territories controlled by the Republic of Indonesia in Java, where needs were greatest, 5.1 tonnes for Indonesians and Chinese in the territories administered by the Dutch, and 7.3 tonnes to the territories controlled by the Republic in Sumatra. In addition to those already mentioned, donors included the Thai Red Cross, some Swiss pharmaceutical companies and the ICRC itself.\(^{45}\)

**The evacuation of Chinese nationals**

As they withdrew under the pressure of the Dutch attacks in July 1947, the Indonesian troops employed scorched-earth tactics. Practically the only non-Indonesians to have remained in the territory of the Republic of Indonesia, Chinese civilians bore the brunt of this violence, suffering loss of life and property. Contacted by the British consul-general on behalf of all foreigners not party to the conflict, the ICRC delegate in Batavia agreed to launch an appeal to the authorities of the Republic of Indonesia, urging them to put a stop to these acts. The ICRC in Geneva had regretted this

\(^{41}\) Notes of 27 November and 24 December 1947 by C. F. Aeschlimann – ICRC Archives, ex 243 (2) B G 3/78 II.

\(^{42}\) Report No. 2 on Indonesian Relief Action, by H. Schweizer, cited above.

\(^{43}\) Report by C. F. Aeschlimann on his trip to South-East Asia, annex to the summary of the meeting of the Delegations Commission held on 12 July 1948. Note of 9 November 1948 by Dr Leutenegger – ICRC Archives, A PV and ex 241 (1) B G 3/72 III.


\(^{45}\) Idem.
As a result of the violence, more than 15,000 Chinese fled their homes and became displaced in the territories controlled by the Republic of Indonesia. The Chinese consul-general in Batavia initiated talks with both parties, with a view to evacuating the displaced to the Dutch-administered territories. The Dutch authorities and those of the Republic both gave their agreement, but the latter requested that the transfers take place under ICRC auspices. Thus, the ICRC, which had helped evacuate the Dutch and the Indo-Dutch, now contributed, in its capacity as a neutral intermediary, to operations to evacuate thousands of Chinese.

According to the agreed procedure, the Chinese, Netherlands and Indonesian Red Cross Societies and other Chinese associations handled the practicalities of organizing the convoys up to the demarcation line and receiving the evacuees in the territories administered by Batavia. The ICRC delegates' role consisted of obtaining the necessary safe conducts from the authorities on both sides and escorting the convoys across the demarcation line at a specified point.

The first evacuations took place on 5 and 9 December 1947, before being suspended for a month as the Indonesian authorities objected to the presence of Dutch troops near the crossing point. After a new route had been accepted, operations resumed from 4 to 18 January 1948, until all Chinese from Surabaya had been transferred. Then came the turn of the Chinese from the Malang region, who used the same crossing point. In total, more than 5,700 Chinese from eastern Java were evacuated in 12 operations.

At a meeting in Jogjakarta with the Indonesian Red Cross organization and prominent members of the Chinese community in early March 1948, the ICRC delegates drew up a plan for Chinese nationals from the Semarang area in central Java. After approval by the Dutch authorities and those of the Republic, this led to the evacuation of over 7,100 people in ten operations between 25 March and 9 May. Because of the lack of roads or their poor condition, these were carried out by railway. Under the watchful eye of an ICRC representative, the evacuees had to walk 4.5 kilometres across a no-man’s-land between the two train stops on either side of the demarcation line.
The last part of the programme, the evacuation of Chinese from western Java, was finally abandoned, as most of them had managed to leave by themselves.\(^{51}\)

**Restoring family links**

From the start of its response in Indonesia, the ICRC helped to restore links between dispersed families, by organizing the exchange of family correspondence and opening enquiries whenever it received tracing requests.

After the first “police operation”, the number of Red Cross messages increased dramatically, and in the second half of 1947 the ICRC even used radio to transmit them to the Republic of Indonesia when no other means were possible. In June 1948, five months after the Renville Agreement, there was still no postal service across the demarcation line, and Red Cross messages remained the only way for people on different sides to communicate. Between March 1947 and October 1948, a total of around 200,000 messages were sent in both directions by the delegation in Batavia.\(^{52}\)

**Prisoners**

*The first visits*

During the first “police operation” in late July and early August 1947, the Dutch captured many Indonesians, both military and civilians, swelling the ranks of those already imprisoned. The ICRC delegates tried to obtain lists of these new prisoners and to negotiate their release in exchange for the few Dutch soldiers who had been captured by the armed forces of the Republic, but their efforts were in vain.

After political talks resumed in November 1947, the question of a prisoner exchange was handled directly by the Dutch and Indonesian delegations under the aegis of the United Nations Good Offices Commission, whose members also had access to the camps.

In February 1948, after the Renville Agreement, the Dutch military authorities informed the ICRC delegates that they were holding around 5,000 Indonesian military prisoners overall in Java and Sumatra. The delegates visited a camp in Batavia on 20 February, a prison in Surabaya on 1 March and a camp in Malang on 12 July, each of which was holding several hundred Indonesian military prisoners.

As a result of the negotiations initiated by the UN Good Offices Commission, at the end of April over 1,200 Indonesian prisoners were exchanged for six Dutch soldiers. Shortly beforehand, the Dutch prisoners had been visited by an ICRC

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\(^{51}\) Note of 25 May 1948 by Dr Leutenegger, cited above.

\(^{52}\) Note of 9 November 1948 by Dr Leutenegger and report by C.F. Aesclimann on his mission to South-East Asia, Delegations Commission, cited above.
delegate, who had travelled to Jogjakarta and handed over clothes and shoes from the Netherlands Red Cross.

More releases took place under the auspices of the UN. In mid-September 1948, there were around 2,000 Indonesian prisoners left, most of whom had been grouped together on Nusakambangan Island in southern Java.\(^{53}\)

**Expansion of the action**

After the second “police operation” in December 1948, the delegation in Batavia stepped up its efforts to help the Indonesian prisoners, about whom great confusion reigned.

Firstly, the Dutch military authorities, who had kept no central card index, said they were unable to provide a general list of the people held. So instead, the delegation tried to obtain lists from the regional commanders, but this was difficult because of the distances involved and the lack of means of communication. The commanders also pointed out that the number of prisoners varied constantly, as ordinary soldiers were released after a review if they were not found guilty of an offence. In reality, the releases were greatly slowed down as a result of the difficulties encountered by the Dutch in pacifying the country in the first half of 1949. New captures took place, and so prisoner numbers increased sharply. The ICRC delegate-general for South-East Asia, Charles Aeschlimann, estimated the total number of Indonesian prisoners at around 10,000.\(^{54}\)

Secondly, the prisoners were divided into different categories, which added to the confusion. Some of them, officially called “de facto prisoners of war”, were members of the Indonesian national army and under the jurisdiction of the military authorities. The others, who were the responsibility of the Attorney General, fell into three main categories – civilian internees, political prisoners and persons arrested preventively for security reasons – depending on whether they had committed a crime or not under penal law. But the political prisoners were sometimes also divided into sub-categories. Basically, however, these prisoners all had in common that they constituted a threat in one way or another to State security, namely that of the colonial power, and they were often held together in the same facilities.\(^{55}\)

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\(^{54}\) Minutes of the meeting of the Delegations Commission held on 12 October 1949 and its annex, dated 17 October, reproducing the presentation by C.F. Aeschlimann – ICRC Archives, A PV.

\(^{55}\) *Idem.* Note of 28 April 1949 by C.F. Aeschlimann. Report No. 1 of 9 September and notes of 20 September and 2 November 1949 by Dr O. Lehner – ICRC Archives, ex 241(1) and 241(2) B G 3/72 III.
From late January to mid-April 1949, the ICRC delegates carried out half a dozen visits to places of detention run by the Dutch in Jogjakarta, Batavia and Malang, a town in eastern Java.\footnote{ICRC Archives, C SC, Camps Service, Indonesia, RT.}

Given the large number of prisoners, Aeschlimann, who had been managing the delegation in Batavia directly since November 1948, asked headquarters in late April to send out a seasoned delegate capable of taking over responsibility for the ICRC’s traditional activities and running the delegation independently.\footnote{Note of 28 April 1949 by C. F. Aeschlimann, cited above.} This was to be Dr Otto Lehner, who did not, however, arrive until September 1949.

Meanwhile, the delegation in Batavia repeatedly approached the authorities of the Republic of Indonesia about the Dutch prisoners of war they were holding, and whom it was unable to visit. In October 1949, the authorities announced that they had handed over to the Dutch six prisoners of war held in eastern Java, 11 in northern Sumatra and six in central Java, and one civilian.\footnote{Note of 15 August 1949 by C. F. Aeschlimann and note of 20 October 1949 by Dr Lehner – ICRC Archives, ex 241(1) and ex 241(2) B G 3/72 III. \textit{ICRC Annual Report 1949}, pp. 89–90.}

On all these matters, the ICRC delegates were also in contact with the United Nations Commission for Indonesia and, in particular, with the Dutch and Indonesian representatives on its special sub-committee in charge of negotiations on the prisoners.

After Dr Lehner’s arrival, visits to Indonesian prisoners increased and were extended to the whole island of Java and to northern Sumatra.

In early October, Dr Lehner also visited Nusakambangan Island off the south coast of Java, which he called the “Javan Cayenne”. He travelled there by boat from Batavia, as going across land was too dangerous, taking two days on very rough seas in monsoon weather. For the return trip, he went with a military convoy to Purwokerto, a town in central Java, flew from there with a military aircraft to Semarang on the north coast and then caught a civilian plane to Batavia. In addition to prisoners of war and political prisoners, thousands of common criminals were held at Nusakambangan. The political prisoners were treated on a similar footing to them, for instance being forced to work without pay, except for a few rare perks. According to the delegate, the island commander treated the prisoners humanely, but he was unable to prevent some “petty” abuse by guards used to dealing with criminals.\footnote{Note of 10 October 1949 by Dr Lehner. Reports on the three camp visits carried out in Noesa Kambangan on 1 and 2 October 1949 – ICRC Archives, ex 241(2) B G 3/72 III and C SC, Camps Service, Indonesia, RT.}

From end January to end November 1949, the ICRC conducted a total of 22 visits to 15 places of detention holding thousands of Indonesian prisoners.\footnote{ICRC Archives, C SC, Camps Service, Indonesia, RT.}

The treatment of “\textit{de facto} prisoners of war”, who enjoyed better detention conditions than the political internees, seemed to be on the whole satisfactory, according to the delegates. The main causes of complaint were that many of the political internees had been imprisoned for months or even one to two years without being brought before
a judge and that members of the Indonesian national army, who had been captured as “de facto prisoners of war”, had subsequently lost this status and were regarded as political internees.

The most alarming conditions of detention in Java were found at Malang prison, where the delegates recorded complaints of ill-treatment. On two occasions, fighting broke out between prisoners and guards during escapes or attempted escapes, leading to loss of life, and the delegates asked the authorities to open an investigation. Another camp where conditions were particularly poor – in terms of housing, food and the treatment of the prisoners, who included children – was in Pematangsiantar, some 120 kilometres from Medan, in northern Sumatra.

The delegates based their actions on the ICRC’s statutory right of initiative and the new provisions of the Geneva Conventions of 1949, which had, however, not yet entered into force. Since they had no official lists of all the prisoners or the places of detention, the only way they could carry out monitoring was to visit the camps and talk in private with the prisoners’ spokesmen. They sought to rectify any breaches of the Conventions, but their task was made harder by the stance adopted by the Dutch authorities, which never admitted to being at war with the Republic of Indonesia. This allowed the Dutch to arrest people deemed to be politically dangerous or offenders, even if they were members of the Indonesian national army, and imprison or sentence them without notifying anyone. The fact that these issues were also being dealt with by the Dutch and Indonesian delegations within the UN’s special sub-committee, which the ICRC delegates did not attend, further complicated the ICRC’s work.

In the weeks before the transfer of sovereignty on 27 November 1949, all Indonesian and Dutch prisoners of war and political internees were released. The few exceptions included members of extremist organizations who had been convicted of crimes and could not be released for security reasons. These were handed over to the Indonesian authorities. Several hundred Indonesians from the Dutch armed forces were also unaccounted for. The ICRC tried to get news of them, but without success.

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61 As set out in Article 8 of the 1928 Statutes of the International Red Cross.
63 Reports No. 3 of 4 December 1949 and No. 4 of 28 February 1950 by Dr Lehner – ICRC Archives, ex 241(2) B G 3/72 III.
Indonesia’s accession to the Geneva Conventions and recognition of the National Society

Throughout 1949, the delegates acted as intermediaries between the Indonesian section of the Netherlands Red Cross and the Indonesian Red Cross organization. They encouraged them to work together for the good of the civilian population, and then, in preparation for the country’s independence, supported the transfer of responsibilities from the Indonesian section of the Netherlands Red Cross to the future Indonesian Red Cross.

Similarly, through talks with the authorities of the Republic of Indonesia, including President Sukarno, and the future Indonesian Red Cross, the delegates prepared the way for Indonesia’s accession to the Geneva Conventions.

Indonesia acceded to the Geneva Conventions of 1929\textsuperscript{64} on 5 June 1950. Ten days later, on 15 June, the ICRC announced the recognition of the Indonesian Red Cross.\textsuperscript{65}

The South Moluccas insurgency

In early 1950, after Indonesia had gained its independence, the ICRC’s work in the country seemed to be drawing to an end. The prisoners of war and civilian internees had been released, and there were no more warring parties requiring the services of a neutral intermediary.

However, President Sukarno’s goal of turning Indonesia into a unitary State sparked resistance in the Federal State of Eastern Indonesia, which comprised Celebes, the Moluccas and the Lesser Sunda Islands. Its capital was Macassar on Celebes. During the struggle for independence, Eastern Indonesia had not fought against the Dutch but had served as a reservoir for the Dutch army fighting against the Republic of Indonesia.

\textsuperscript{64} Not yet recognized as a sovereign State by the entire international community, Indonesia had not been able to participate in the 1949 Diplomatic Conference or to sign the Geneva Conventions of 1949. As these had not yet entered into force when it gained independence, it could not accede to them. This was why it acceded to the Conventions of 1929. Its accession to the 1949 Conventions came about in 1958.

Alert in Macassar

A first uprising broke out in Celebes and was quickly suppressed. It was led by a rebel group made up of members of the Indonesian units of the former Dutch colonial army. It culminated with the landing of troops from the Indonesian national army in southern Celebes on 18 April 1950, and their arrival in Macassar four days later.

By coincidence, the ICRC delegate in Indonesia, Dr Lehner, was in Macassar at the time. He had travelled there with the Indonesian Red Cross, which was having difficulty in establishing itself in Eastern Indonesia, where a “Yellow Cross” had been set up with the support of the State president. As Indonesian troops were landing and fierce fighting for the capital was feared, the delegate suggested to the president that Macassar be declared an open city, so as to spare the civilian population. This proposal was not adopted, but a blood bath was averted as the rebel troops eventually surrendered without a fight and the government of Eastern Indonesia resigned. As for the original purpose of his mission, Dr Lehner was successful. The activities of the Netherlands Red Cross were transferred to the Indonesian Red Cross during his stay.

Proclamation of the “Republic of the South Moluccas”

This first uprising was immediately followed by an insurgency in the Moluccas, where the main islands of Amboina, Ceram and Buru, inhabited mostly by Christians, proclaimed the “Republic of the South Moluccas”. Its government, installed “at bayonet point”, was on Amboina and relied on troops from the former Dutch colonial army. Many of the leaders came from the defunct Eastern Indonesian government who had taken flight. After a failed conciliation attempt, the Indonesian government declared war on the rebel “Republic” in the first half of May 1950. It also decreed an economic blockade of the archipelago and announced an impending military expedition.

This actually began only in late July 1950. The island of Buru was the first to fall, almost without opposition. However, the Indonesian troops met with strong resistance on the island of Amboina, where they landed on 26 September. After a month and a half of bitter fighting in Amboina town, the hostilities ended. The situation was less clear in Ceram, where Indonesian troops held only the coast, and the insurgents were believed to have withdrawn into the jungle. But, as Dr Lehner noted, that part

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66 After the transfer of sovereignty, members of these units could choose either to join the Indonesian national army or be demobilized and sent back to their villages, receiving a pension from the Dutch authorities.

67 Report of 27 April 1950 by Dr Lehner on his trip to Eastern Indonesia, Macassar, from 11 to 20 April 1950 – ICRC Archives, ex 241(2) B G 3/72 III.

68 According to Dr Lehner; see his note of 21 May 1950 to the ICRC – ICRC Archives, ex 241(2) B G 3/72 III.
of the island, inhabited only by indigenous peoples, had been uncontrollable already under the Dutch, and similar situations were found in other parts of Indonesia.\textsuperscript{69}

**Appeal to respect the principles of international humanitarian law and offer of services**

In mid-May 1950, the Netherlands Red Cross, which wanted to avoid any formal representations on this matter, alerted the ICRC to the plight of the civilian population of Amboina, which was running out of supplies because of the economic blockade. The ICRC asked its delegate in Jakarta to provide more information and advise whether he deemed any action necessary.\textsuperscript{70}

On 20 May, following the proclamation of the “Republic of the South Moluccas” and the resulting declaration of war by the Indonesian government, Dr Lehner addressed, on his own initiative, a memorandum to the governments of the United States of Indonesia and of the “South Moluccas”. In it, he drew their attention to the basic principles of international humanitarian law, as well as the newly minted Article 3 of the 1949 Geneva Conventions applicable in non-international armed conflicts, quoting it verbatim.\textsuperscript{71} In addition, he offered the services of the ICRC, as an impartial humanitarian organization, in applying these provisions.\textsuperscript{72}

Dr Lehner handed the memorandum personally to the Indonesian government authorities in Jakarta, which received it favourably. He also informed them of his wish to go to Amboina to get an idea of the humanitarian situation but received no clear reply.

On 10 June, the Indonesian government formally confirmed its intention to strictly observe Article 3 and the humanitarian principles laid out in the memorandum. It noted, however, that the events unfolding in the South Moluccas did not constitute an international conflict. They were merely a revolt, “led by obscure politicians”, by some members of the Indonesian units of the Royal Netherlands Army stationed in Amboina. The Indonesian government therefore protested against the expression “conflict between the Republic of the United States of Indonesia and the South Moluccas government” used in the memorandum, just as it rejected the use

\textsuperscript{69} Notes of 21 May and 13 June 1950, report of 18 October 1950 on the trip to the South Moluccas and the confidential report of 22 December 1950 by Dr Lehner about Amboina – ICRC Archives, ex 241(2) B G 3/72 III and B AG 200 097-001.

\textsuperscript{70} Minutes of the meeting of the Commission for External Activities held on 17 May 1950. Letter of 17 May 1950 from the ICRC to Dr Lehner via the Swiss Federal Department of Foreign Affairs – ICRC Archives, A PV and ex 241(1) B G 3/72 III.

\textsuperscript{71} See p. 234 above.

\textsuperscript{72} Memorandum dated 20 May 1950, Jakarta, D 368 b. Minutes of the meeting of the Commission for External Activities held on 31 May 1950 and of the meeting of the Presidential Council held on 1 June 1950 – ICRC Archives, B AG 200 097-001 and A PV.
of the word “party” to refer to the rebels. Meanwhile, no mention was made of the ICRC’s offer of services.  

Dr Lehner at once sought to clarify that the ICRC’s offer of services did not in any way imply recognition of a government other than the legal government and that any action on its part would have no impact on the legal status of the parties to the conflict, as the very wording of Article 3 made clear. The ICRC’s only concern was ensuring respect for the fundamental principles of international humanitarian law in situations of internal conflict.  

As regards the “Republic of the South Moluccas”, the delegate was unable to hand over the memorandum directly because of the blockade by the Indonesian armed forces and the breakdown of telegraphic communications with Amboina. He therefore asked the Indonesian government to broadcast the text on Radio-Macassar and requested ICRC headquarters to forward it to the representative of the “Republic of the South Moluccas” in the Netherlands.  

Despite these efforts, the memorandum did not reach Amboina before the start of military operations in July 1950, at least according to two representatives of the “Republic of the South Moluccas”, who visited the ICRC on 4 August. When asked, however, they immediately announced their authorities’ intention to accept “the fundamental principles of international law and the applicable Conventions”, and this was confirmed to the ICRC formally on 22 August.  

**Appeal for relief for the “Republic of the South Moluccas”**

At the start of the blockade by the Indonesian armed forces, the representative of the “Republic of the South Moluccas” in the Netherlands sent an appeal for aid to the International Red Cross, as well as to the National Societies of Australia, the Netherlands, the Philippines, Switzerland and the United States of America. In accordance with the division of tasks between the ICRC and the League of Red Cross Societies established by the Statutes of the International Red Cross of 1928, it fell to the ICRC to respond. On 9 June 1950, the ICRC sent a telegram to the above five National Societies asking if they would be willing to participate in a relief operation.

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73 Note of 13 June 1950 by Dr Lehner, reproducing the text of the reply by the Indonesian Ministry of Foreign Affairs on 10 June 1950 – ICRC Archives, ex 241(2) B G 3/72 III.
74 Note of 13 June 1950 by Dr Lehner, cited above. On this point, see also the letter of 21 March 1952 sent by the ICRC to the deputy high commissioner of the Commonwealth of Australia in London – ICRC Archives, B AG 200 097-003.
75 Notes of 21 May and 13 June 1950 by Dr Lehner, cited above.
76 Minutes of the meetings of the Commission for External Activities held on 2 and 9 August 1950 – ICRC Archives, A PV. Note of 7 August 1950 from the ICRC to Dr Lehner via the Swiss Federal Department of Foreign Affairs and the letter of 22 August 1950 to the ICRC from the representative of the “Republic of South Moluccas” to the Netherlands, Dr J.P. Nikijuluw, – ICRC Archives, ex 241(2) B G 3/72 III and ex 241(1) B G 3/72 III.
in the South Moluccas if need be. It apprised Dr Lehner of this step and instructed him to seek authorization from the Indonesian government for a delegate and relief to pass through the blockade. It also kept the Netherlands Red Cross abreast of its actions, as this Society had already approached the ICRC and was the first to offer material support.  

However the Netherlands Red Cross, which the ICRC had advised to remain discreet at this stage, publicly revealed the ICRC’s intention to send relief to the civilian population of the South Moluccas even before Dr Lehner had had time to inform his Indonesian contacts. This announcement, mixed up with other purely political news, was more or less distorted by the press. This indiscretion and its false interpretation prompted the delegate to publish, in agreement with the Indonesian Ministry of Foreign Affairs, a statement clarifying certain basic points, namely that: as regards material assistance, the ICRC’s role was confined to that of a neutral intermediary in arranging the delivery of relief and monitoring its use; this relief could only comprise medicines and medical equipment; all other assistance, such as food and clothing, could only be intended for certain particularly vulnerable groups of civilians, in accordance with Article 23 of the Fourth Geneva Convention of 1949 on the protection of civilians; and an operation of this kind could only be undertaken with the agreement of the government that had decreed the blockade and under certain conditions, which was why the ICRC had instructed its delegate in Jakarta to request a safe conduct from the Indonesian government.  

On 14 June, the delegate officially asked the Indonesian Foreign Ministry for permission for the ICRC to launch a relief operation in the South Moluccas. He confirmed this request in writing three days later.

**Delays and refusal by Jakarta**

In early July, the Indonesian government informed the ICRC by telegraph that it was for the moment not possible for it to give the green light to the proposed relief operation.

From that point on, both the ICRC in Geneva and, at its instigation, Dr Lehner in Jakarta, stepped up their written and oral representations with a view to obtaining the requested authorization. Their efforts intensified further following the outbreak of hostilities in late July, which led to the occupation of Buru and Ceram. They then asked that a delegate be allowed to travel to the South Moluccas in order to carry out

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77 Minutes of the working session of the Committee held on 8 June 1950 and of the meeting of the Presidential Council held on 15 June 1950 – ICRC Archives, A PV.
78 Minutes of the meeting of the Presidential Council held on 1 June 1950 – ICRC Archives, A PV.
79 Note of 13 June 1950 by Dr Lehner cited above, and its annexes.
80 Chronology of events in the South Moluccas and ICRC action, annexed to the letter of 4 May 1951 from the ICRC to the president of the Netherlands Red Cross – ICRC Archives, B AG 200 097-003.
81 Minutes of the working session of the Committee held on 6 July 1950 – ICRC Archives, A PV.
the ICRC’s traditional activities for prisoners of war and civilian internees, irrespective of the question of relief.82

However, the Indonesian government stuck by its refusal, as well as its argument that the Geneva Conventions did not apply in this situation, even if it had declared its readiness to respect the humanitarian principles laid out in the ICRC’s memorandum of 20 May 1950. When the delegate mentioned common Article 3, the government pointed out that Indonesia was not yet party to the 1949 Conventions. In any case, and for political reasons, it would not accept the intervention of a foreign organization in a strictly internal matter. In its view, any assistance provided by an organization, even a humanitarian one, would be exploited politically by the military and political “adventurers” in the South Moluccas and interpreted as support for their resistance movement. On the other hand, the government was favourable to the sending of an Indonesian Red Cross team to the South Moluccas, and all relief sent from outside should be directed to the National Society.83

The Indonesian government was also opposed to Dr Lehner’s travelling to Amboina to carry out the traditional activities of the ICRC.84

In light of this refusal, in early August the ICRC decided to dispatch a delegate directly from Geneva to Amboina. After a visit from representatives of the “Republic of the South Moluccas”, it had reached the following conclusion: this was a civil war and the new 1949 Conventions give the ICRC responsibilities in this respect, so it had to decide whether it intended to implement them or not. The Indonesian government had moreover committed itself to respecting the spirit of the Geneva Conventions of 1949, and common Article 3 in particular.85 Last but not least, the presence of war victims in the South Moluccas required that it act on their behalf, regardless of any political or legal considerations. As a result, the ICRC decided to go ahead and to keep the Indonesian government informed of its intentions.86

Apprised by Dr Lehner, the Indonesian government appeared to soften its position. It told the ICRC that it had no objection if its delegate wished to travel to the South Moluccas and requested him to take the matter up with the Indonesian Red Cross, which would organize the visit. This being said, Dr Lehner was also free to travel to Amboina by his own means and at his own risk, if he so desired.87

82 Chronology of events in the South Moluccas and ICRC action, cited above. Report of 30 October 1950 by Dr Lehner, summarizing all his representations regarding the South Moluccas and annexed to his note of 31 October 1950 – ICRC Archives, ex 241(2) B G 3/72 III.
83 Note of 13 July 1950 by Dr Lehner – ICRC Archives, ex 241(2) B G 3/72 III.
84 Note of 28 July 1950 by Dr Lehner – ICRC Archives, ex 241(2) B G 3/72 III.
85 At this date it was already known that the Geneva Conventions of 1949 would enter into force on 21 October 1950, that is six months after two instruments of ratification had been deposited.
86 Note of 7 August 1950 from the ICRC to Dr Lehner via the Swiss Federal Department of Foreign Affairs, cited above. Minutes of the meetings of the Commission for External Activities held on 9 August, 15 October and 8 November 1950 – ICRC Archives, A PV.
87 Letter of 12 August 1950 from the Indonesian Ministry of Foreign Affairs, annexed to the report of 18 October 1950 by Dr Lehner on his trip to the South Moluccas – ICRC Archives, ex 241(2) B G 3/72 III.
Dr Lehner and the Indonesian Red Cross thus drew up a plan according to which he would travel to Amboina on a seaplane chartered by the National Society and marked with the red cross emblem. At the same time, the National Society would send a boat with medicines and food to Amboina and then Ceram and Buru. Dr Lehner would await it in Amboina, after establishing contact with the authorities.

The plan was at first accepted by the Indonesian government, while the authorities of the “Republic of the South Moluccas”, alleging abuses committed by Jakarta, refused all relief from Indonesian sources. It was then finally rejected by the Indonesian Ministry of Defence, which refused to grant the necessary safe conducts. Instead, the Indonesian government suggested that the delegate visit the South Moluccas islands under its control, accompanied by an Indonesian Red Cross team. This proposal, it stressed, did not call into question its earlier consent that he could travel to Amboina at his own risk. \(^{88}\)

The ICRC therefore reverted to its plan of going directly to Amboina without passing through Jakarta.

**Expedition to the South Moluccas**

While the ICRC was trying to find a plane to fly to Amboina, \(^{89}\) Dr Lehner made a trip to the South Moluccas from 31 August to 11 October 1950 with the Indonesian Red Cross. Before his departure, he was granted permission to visit the rebels captured by the Indonesian armed forces. However, Amboina was not included in the travel plan, “for reasons of expediency”. \(^{90}\)

In Macassar, his first port of call, the delegate established contact with the military commander for Eastern Indonesia. Although he had never heard of the Geneva Conventions, he confirmed that the delegate would be allowed to visit prisoners of war, were he to come across any during his trip. According to the commander, they were very few in number, because of the small scale of the military operations so far and also because the prisoners had agreed to join the Indonesian national army. In the event, Dr Lehner visited only three wounded prisoners of war, who had been transferred from Ceram to Macassar hospital. The local commanders he met during the

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88 Letter of 22 August 1950 from the Indonesian Ministry of Foreign Affairs to Dr Lehner. Report of 30 October 1950 by Dr Lehner, cited above. Chronology of events in the South Moluccas and ICRC action, cited above. Letter of 22 August 1950 to the ICRC from the representative of the South Moluccas in the Netherlands, cited above. Note of 16 August 1950 from the ICRC to Dr Lehner via the Swiss Federal Department of Foreign Affairs. Minutes of the meeting of the Commission for External Activities held on 16 August 1950 and of the working session of the Committee held on 17 August 1950 – ICRC Archives, ex 241(1) B G 3/72 III and A PV.

89 Minutes of the meetings of the Presidential Council held on 24 August, 5 September and 19 October 1950. Minutes of the meetings of the Commission for External Activities held on 6 September, 4 October and 18 October 1950 – ICRC Archives, A PV. Chronology of events in the South Moluccas and ICRC action, cited above.

90 Letter of 25 August 1950 from the Indonesian Ministry of Foreign Affairs to Dr Lehner, annexed to the report of 18 October 1950 by Dr Lehner on his trip to the South Moluccas, cited above.
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rest of his trip confirmed that they were holding no prisoners. The delegate noted, “what is more, the whole issue seems to be quite alien to them”. He gathered that in this kind of guerrilla operation, few or no prisoners were taken.91

During a journey of over 4,600 kilometres on board a ship chartered by the Indonesian Red Cross and marked with red crosses, between 14 September and 11 October, Dr Lehner visited seven islands in the Moluccas archipelago, namely Buru, Banda, Kei, Aru, Tanimbar, Babar and Kisar. As well as not going to Amboina, they were finally unable to visit Ceram as originally planned, as military operations were under way there. Of the islands visited, only Buru had seen some fighting, while the others had never come under the control of the “Republic of the South Moluccas”.

As Dr Lehner noted on his return, the expedition had taken place where it was least needed from the ICRC’s point of view, that is where the fighting was over or had never occurred. However, it provided a chance to forge useful contacts with the military authorities in charge of operations against Amboina and to tell the local commanders about the Geneva Conventions.92

ICRC tenacity

While the ICRC delegate was on his travels, Indonesian troops launched an offensive against Amboina.

As a result, the representative of the “Republic of the South Moluccas” in Europe approached the ICRC again in early October. It was also contacted by the Netherlands Red Cross, which offered to fund the chartering of an aircraft to fly to Amboina and the purchase of relief. The ICRC reiterated its offers of services to the Indonesian government, which were relayed by Dr Lehner on his return to Jakarta.93

The Indonesian government still wanted the relief to be channelled through the Indonesian Red Cross but noted that it would be unable to reach Amboina before it fell.94

Asked yet again by ICRC headquarters to step up the pressure on the Indonesian authorities, Dr Lehner, after five months of unremitting efforts, gave vent to his frustration: “How can they be asking us to approach them again on the same issues, after we telegraphed the results to them one week ago; how can they be asking us to do something for prisoners of war and civilian internees (...), after we sought out every military commander in the far-flung islands of the South Moluccas to explain the principles of the Geneva Convention to them and to look for prisoners of war; how can it be that one day the ICRC plans to fly over the whole area of operations without

91 Report of 18 October 1950 by Dr Lehner on his trip to the South Moluccas, cited above.
92 Idem.
93 Chronology of events in the South Moluccas and ICRC action, cited above. Minutes of the meetings of the Commission for External Activities held on 11 October and 18 November 1950 – ICRC Archives, A PV.
94 Minutes of the meeting of the Presidential Council held on 19 October 1950 – ICRC Archives, A PV.
a safe conduct from the Indonesian military, and the next it asks its delegate to obtain one, although this has been consistently refused for months.”

In its reply, the ICRC justified its insistence by its concern to help the victims and the fact that it was under “considerable external pressure”, by which one must understand the strong urgings of the Amboina authorities, either directly or via the Netherlands Red Cross.

Given the prevailing anxiety about the victims, and strengthened by the financial guarantees received from the Netherlands Red Cross, the ICRC stepped up its preparations to send a plane to Amboina. The plan was that it should go ahead and land even without an authorization from Jakarta. As the ICRC President, Paul Ruegger, said: “If the Amboina authorities say no or do not reply at all, we shall have to give up the attempt. But if the opposition comes from Jakarta, we must take the risk and still try to bring in relief, even without formal permission.” Thus, when the time came, the ICRC intended to ask the Indonesian authorities not for a formal safe conduct but “merely” the guarantee that a plane marked with the red cross sign would not be attacked and that orders would be issued to that effect.

Whereas the ICRC in Geneva had been told by the Amboina authorities that they were holding most of the territory of the South Moluccas, Dr Lehner in Jakarta received authorization to travel to Amboina aboard a military plane provided by the Indonesian prime minister. The ICRC informed its delegate that his trip to Amboina did not in any way change its plan to send a plane with relief directly from Geneva to the part of the island controlled by the Amboina authorities.

**First trip to Amboina**

On 13 November 1950, Dr Lehner and two members of the Indonesian Red Cross flew to Macassar, where the ICRC delegate visited six prisoners of war. From there they finally took a military boat, as Amboina airport was damaged, arriving at their destination on 19 November.

The town and island of Amboina were in the hands of Indonesian troops, except for some mountainous areas where some hundred partisans were still fighting. Most of the other fighters had surrendered. The town itself, where fighting had raged for six days, was 80 per cent destroyed. Around 30,000 people had lost their homes. The

95 Report of 30 October 1950 by Dr Lehner, cited above. Author’s translation.
96 Letter of 10 November 1950 by J. Chenevière, vice-president of the ICRC, to Dr Lehner – ICRC Archives, ex 241(2) B G 3/72 III.
97 Minutes of the meeting of the Presidential Council held on 2 November 1950. See also the minutes of the meetings of the Commission for External Activities held on 25 October and 8 November 1950 – ICRC Archives, A PV.
98 Letter of 10 November 1950 from J. Chenevière to Dr Lehner, cited above.
99 Chronology of events in the South Moluccas and ICRC action, cited above. Minutes of the meeting of the Commission for External Activities held on 15 November 1950 – ICRC Archives, A PV.
population was on its knees, weak from malnutrition after six months of blockade and a dysentery epidemic. One resident described their utter destitution as follows: “We have been liberated three times lately, first by the Japanese, then by the Allies and finally by the Indonesians, so we have been liberated of everything we have.”

Dr Lehner and the two National Society members visited a number of refugee camps in Amboina town and elsewhere on the island in order to set up a distribution committee for the relief that would be arriving from the ICRC, the Indonesian Red Cross and other charities. In the town, the ICRC delegate also visited a camp holding 50 prisoners of war and 77 civilian internees whose status was not yet clearly defined. Some of them were due to be released, some handed over to the military authorities and some brought to trial, although the main instigators of the rebellion had fled. The prisoners’ living conditions were similar to those of civilians in refugee camps, if not better.

Dr Lehner returned to Jakarta via Macassar on 30 November. After stressing the urgency of the needs to the Indonesian government, he received permission the same day for the ICRC plane to travel to Amboina.

100 Confidential report of 22 December 1950 by Dr Lehner on Amboina – ICRC Archives, B AG 200 097-001.

101 Note of 30 November 1950 by Dr Lehner on his trip to Amboina. Minutes of the meeting of the Commission for External Activities held on 13 December 1950 – ex 241(2) B G 3/72 III and ICRC Archives, A PV.
Abortive trip to the “Republic of the South Moluccas”

By then, however, the ICRC plane had already left Geneva, on 18 November 1950. It was a DC3 provided by the Netherlands Red Cross, registered by the ICRC in Switzerland and flown by an Air France crew. Escorting an ICRC delegate, Dr Raul Pflimlin, it was painted white with the red cross emblem and was carrying 1,200 kilos of medicines purchased with funds from the Netherlands Red Cross. Some 2.8 tonnes of milk powder and 550 kilos of medicines were also waiting in Singapore.

The ICRC delegate had instructions to go to the part of Amboina Island not yet occupied by Indonesian troops and to concern himself with the treatment of prisoners, both military and civilian, held by the “Republic of the South Moluccas”. As for the relief, he was to make sure it went to war victims, that is prisoners and vulnerable groups of civilians not participating in the hostilities. If he met up with Dr Lehner, he should hand over some of the goods for victims on the part of the island occupied by Indonesian troops. Before reaching its final destination, the aircraft was to make a last stopover either on the Portuguese side of Timor or in Zamboanga, on the island of Mindanao in the Philippines.

On 20 November, the ICRC sent a message to the Indonesian government and the representative of the “Republic of the South Moluccas” in Europe informing them officially of the departure of the plane, which was expected to land in Amboina seven days later. The ICRC asked them to forward the content of its message to their respective armed forces, in order to avoid an unintentional attack, and to send a reply.

On 23 November, the Indonesian government informed the ICRC that the plane must pass through Jakarta and that everything would be prepared for its trip. The ICRC decided to reply that the aircraft was already on its way, while requesting confirmation that the necessary instructions had been given to ensure its protection.

Meanwhile, the representative of the “Republic of the South Moluccas” in Europe assured the ICRC that the military authorities would fully facilitate the landing of the plane and the distribution of the relief.

Everything was ready for the aircraft to land in Baucau, in Portuguese Timor, on 27 November. However, on 28 November, the ICRC learnt that it had been forced

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104 Minutes of the meeting of the Commission for External Activities held on 22 November 1950 – ICRC Archives, A PV. Chronology of events in the South Moluccas and ICRC action, cited above.
105 Minutes of the working session of the Committee held on 23 November 1950 and of the meeting of the Commission for External Activities held on 29 November 1950 – ICRC Archives, A PV.
106 Chronology of events in the South Moluccas and ICRC action, cited above.
to land in Kupang, in the Indonesian part of Timor. Here is Dr Pflimlin’s account of what happened:

We had planned to fly to Baucau, but 500 km off the coast of Timor we received a radiogram from Baucau telling us that there was not a drop of petrol there and recommending that we go to Kupang in the Indonesian part of the island. We were forced to land there as it was too late to turn back or reach another country. Zamboanga to Timor was about the furthest a DC3 could fly, and even so we arrived with just enough petrol for 15 more minutes in the air!! The plan was to fill up quickly in Kupang and set off again immediately for Baucau. But I had reckoned without the Indonesians. They greeted us with machine guns and revolvers in their hands. We were absolutely forbidden to leave until Jakarta had spoken. (...) I sent a telegram to Jakarta at once requesting permission to take off for Baucau. The next morning I received ‘instructions’ to go to Jakarta.¹⁰⁷

On learning what had happened, the ICRC president, Paul Ruegger, sent a telegram to the Indonesian prime minister asking that the plane be allowed to set off again directly for Amboina, without stopping in Jakarta, but to no avail.¹⁰⁸

Thus forced to go to Jakarta, Dr Pflimlin found Dr Lehner there, just back from his trip to Amboina. Since almost the whole island – including the airport, which Dr Lehner had seen with his own eyes was practicable – was controlled by the Indonesian armed forces, it was decided, in agreement with the Indonesian authorities, to fly directly from Jakarta to Amboina.

The first flight took off on 2 December, after many delays. The 1,200 kilos of medicines were unloaded and handed over to the local Red Cross committee, which Dr Lehner and the Indonesian Red Cross had set up ten days before. Meanwhile, Dr Pflimlin tried, in vain, to strike out into the jungle and establish contact with the rebels, who were said to be holding villages in the mountains behind Amboina town, and where there were reportedly two to three thousand refugees and a hospital. He even considered parachuting medicines onto the hospital but was unable to procure parachutes. This was fortunate, because – as Dr Lehner later learned from wounded soldiers who had all been transferred from the hospital to the one in Amboina – Indonesian troops had in the meantime occupied the area, and so it is they who would have received the parachuted relief.¹⁰⁹

After the plane had picked up 1.3 tonnes of milk and 80 kilos of medicines in Singapore – the remaining supplies stored there were to be transported later via Jakarta – a second flight to Amboina took place on 6 December. Dr Lehner stayed on the spot for several days in order to start the relief distributions and to set up

¹⁰⁷ Final report of 24 December 1950 by Dr R. Pflimlin, cited above.
¹⁰⁸ Minutes of the meeting of the Commission for External Activities held on 29 November 1950 – ICRC Archives, A PV.
milk distribution centres in the refugee camps, thanks to 30 tonnes of milk powder received from UNICEF after his first trip to Amboina.\footnote{Final report of 24 December 1950 by Dr R. Pflimlin, cited above. Confidential report of 22 December 1950 by Dr Lehner about Amboina, cited above. Minutes of the meeting with Dr Lehner held on 20 May 1951 in Geneva – ICRC Archives, B AG 200 097-001.}

The plane and its crew returned to Geneva on 16 December 1950, having covered over 42,000 kilometres in 28 days. They had had to land a dozen times before reaching Amboina, as the advance of Indonesian troops meant that the authorities of the “Republic of the South Moluccas” could not tell the ICRC in good time where its aircraft could touch down. Along the way, the plane had broken down several times, endured harsh weather conditions because of the rainy season and, once at its destination, had landed at a bombed-out airport that was considered impracticable by the Indonesians.\footnote{Chronology of events in the South Moluccas and ICRC action, cited above. Letter of 13 January 1955 from the ICRC to its delegate A. Durand in Saigon – ICRC Archives, B AG 200 097-001. \textit{ICRC Annual Report 1950}, pp. 78–80.}

\section*{Continuing difficulties}

Despite the many risks taken and Dr Pflimlin’s efforts to establish contact with the rebel forces, the Netherlands Red Cross did not hide its disappointment at the results. It was in an awkward position vis-à-vis Dutch public opinion and its donors in particular – primarily the Amboina community in the Netherlands – as the relief had been distributed only in the territories controlled by the Indonesian forces. Citing the continued fighting in Ceram, both the Netherlands Red Cross and the representatives of the “Republic of the South Moluccas” urged the ICRC to continue its operations.

In response to this discontent, the ICRC pointed out that some of the intended beneficiaries had in fact been reached, namely the civilian population of Amboina, the vast majority of which was in the territory controlled by the Indonesians when the relief arrived. But it still asked its delegate in Indonesia to suspend the distribution of the remaining aid until some of it could be handed out in the territories controlled by the “Republic of the South Moluccas”, in particular Ceram. It also decided to contribute 50,000 Swiss francs from its own funds to boost the operation.\footnote{Note of 15 December 1950 from the ICRC to Dr Lehner via the Swiss Federal Department of Foreign Affairs. Minutes of the meetings held on 18 and 19 January 1951 by the ICRC with the director of the Netherlands Red Cross – ICRC Archives, ex 241(2) B G 3/72 III and B AG 200 097-003. Meetings of the working sessions of the Committee held on 4 and 31 January 1951. Minutes of the meetings of the Commission for External Activities held on 24 January and 27 June 1951 – ICRC Archives, A PV.}

The Indonesian government, meanwhile, considered that the conflict was over.
In mid-March 1951, Dr Pflimlin, who had replaced Dr Lehner at the head of the delegation in Jakarta, travelled to Macassar and Amboina to visit prisoners but was not authorized to proceed to Ceram in order to decide how to continue the relief operation.\textsuperscript{113}

In June, however, he was able to visit the islands of Amboina, Saparua – in the same archipelago as Amboina – and Ceram with the vice-president of the Indonesian Red Cross, after the usual stopover in Macassar. In Ceram, “where patrols ventured no more than 10 kilometres inland, and then only with all possible precautions”, he was unable to establish contact with representatives of the “Republic of the South Moluccas”, “despite various attempts in different parts of the island”. “At a certain distance from their bases,” he reported, “the patrols refused to advance. I pushed on by myself but, to tell the truth, did not get far, given the many dangers involved (traps of various designs, automatic poisoned arrows and spears, etc.).”\textsuperscript{114}

Travelling on a coastal vessel that did the rounds of the islands, Dr Pflimlin visited several villages and refugee camps first in Amboina and then in Saparua and Ceram. He found that the population of Amboina was now slightly better off as regards the availability of food, but that health conditions were still catastrophic, particularly in Ceram, which lacked everything. In spite of this, he decided temporarily to halt relief distributions, seeing the great disorganization in which they were being carried out, and because of the difficulty of obtaining reports from the local Red Cross committee in charge. He advised the ICRC to send out two doctors and five nurses to form teams, including Indonesian staff, organize outpatient clinics and milk distribution centres and supervise the delivery of aid.\textsuperscript{115}

### Prisoners

During this same trip, in June 1951, the delegate visited one detention facility in Macassar, two in Amboina and one in Fort Saparua, which were holding a total of 745 prisoners, a marked increase since December 1950 (285) and March 1951 (528).\textsuperscript{116}

Further visits took place nearly a year later, during a trip to the South Moluccas by Dr Pflimlin and his successor, Jean Munier, in mid-May 1952. The delegates had access to Amboina hospital, camp and prison, and Kairatu camp on the island of Ceram, which were holding about 500 prisoners between them. Dr Pflimlin noted a considerable improvement in their living conditions. The prisoners living in camps enjoyed a large degree of freedom. They were generally released after three to six months, after

\textsuperscript{113} Note of 29 January 1952 on the ICRC’s work in Indonesia from F. Horneffer to the Commission for External Activities – ICRC Archives, B AG 252 097-001.

\textsuperscript{114} Report of 10 July 1951 by Dr Pflimlin on his trip to the South Moluccas from 13 to 30 June 1951 – ICRC Archives, B AG 200 097-001.

\textsuperscript{115} Idem.

\textsuperscript{116} Idem.
which they were either enrolled in the national army or returned to civilian life. Those that were considered dangerous were held in Amboina prison or on Nusakambangan Island in southern Java pending trial. 117

Munier visited Nusakambangan, where Dr Lehner had been in October 1949, during a trip to central Java in late July 1952. 118 There were then some 7,900 prisoners on the island, including around 3,700 who had been detained as a result of the state of siege and war in Indonesia. These were progressively released at a rate of two to three hundred a week until, according to the authorities, only around 30 per cent were left and awaiting trial. As far as the delegate could judge after a visit of only a few hours and without being able to talk to the prisoners in private, the conditions of detention were satisfactory. 119

The end of the operation

The ICRC decided not to follow up on Dr Pflimlin’s proposal to send medical personnel to the South Moluccas. It lacked the necessary resources, and the costs involved seemed disproportionate to the value of the aid yet to be distributed. Moreover, the Indonesian authorities and Red Cross seemed unwilling to let the ICRC take charge of the relief distributions. 120

In agreement with the Netherlands Red Cross, which asked the ICRC to maintain its delegation in Indonesia – where there were still 50,000 Dutch, according to this National Society – and after again asking the representatives of the “Republic of the South Molouccas” how its delegate could establish contact with their counterparts in the field in order to organize distributions, the ICRC decided to wait until the end of 1951 before determining the destination of the remaining aid. 121 Having still received no reply from the representatives of the “Republic of the South Moluccas”, the ICRC then instructed Dr Pflimlin to distribute the relief stored in Amboina as

117 Report of 22 May 1952 by Dr Pflimlin on his trip to Amboina with J. Munier, from 10 to 20 May 1952. Letter of 16 June 1952 from J. Munier to the military commander in the Moluccas – ICRC Archives, B AG 200 097-001. See also the visit reports in the ICRC Archives, B AG 210 097-002. Minutes of the meeting of the Commission for External Activities held on 25 June 1952 – ICRC Archives, A PV.


120 Note of 17 August 1951 by F. Horneffer on the activities of the ICRC in Indonesia – ICRC Archives, B AG 200 097-003. Minutes of the meetings of the Commission for External Activities held on 27 June and 12 September 1951 – ICRC Archives, A PV.

121 Minutes of the working meetings of the Committee held on 13 May and 27 September 1951 and minutes of the meeting of the Commission for External Activities held on 26 September 1951 – ICRC Archives, A PV.
quickly as possible, in cooperation with the Indonesian Red Cross, whom it again asked for reports on previous distributions.\textsuperscript{122}

Dr Pflimlin travelled to Amboina and Ceram again from 10 to 20 May 1952, with Munier his successor, who had arrived in Jakarta in mid-April. In addition to visiting prisoners and distributing the remainder of the relief, they wanted to assess the situation in Ceram, where several ministers of the “Republic of the South Moluccas” had surrendered to the Indonesian forces with around 2,000 armed fighters who had been holding out on the island. The ICRC wanted to know whether and how it could carry out its plan to provide relief to any victims in areas still controlled by the troops of the “Republic of the South Moluccas” or who had fallen into Indonesian hands.\textsuperscript{123}

Once on the spot, the delegates learned that the Indonesian Red Cross had in fact already distributed the relief, namely powdered milk and medicines, in Amboina and Ceram between June 1951 and April 1952. They saw that, while the situation had improved in Amboina, things were still very bad in Ceram. Civilians who had, willingly or forcibly, supported the “Republic of the South Moluccas” in the central part of the island had suffered great hardship. They were now flooding to the coastal villages, where they arrived in a state of great physical and emotional distress.\textsuperscript{124}

At that moment, the ICRC still had two sums of money to spend on relief activities in Indonesia, namely 80,000 Swiss francs left over from the initial amount given by the Netherlands Red Cross at the start of the operation in the South Moluccas, and the credit of 50,000 Swiss francs voted from its own funds in January 1951. Given the Indonesian government’s reticence regarding anything to do with the South Moluccas, plus the fact that around one million people, the victims of extremist political and religious organizations, were displaced in Java, the ICRC decided to launch a double relief operation: one for refugee camps on Ceram or possibly Amboina, and the other, given its limited financial resources, for displaced people in a specific region of Java. It therefore asked its delegate to make enquiries on the spot and provide detailed estimates for the purchase of food and medicines.\textsuperscript{125}

To this end, Munier travelled to central Java and the Bandung area of western Java from 19 to 31 July, together with the Indonesian Red Cross.\textsuperscript{126} However, the Indonesian military authorities opposed a similar assessment in the South Moluccas.

\textsuperscript{122} Report of 1 November 1951 by Dr Pflimlin covering the period from 1 August to 31 October 1951. Note of 29 January 1952 from F. Horneffer to the Commission for External Activities – ICRC Archives, B AG 200 097-001 and B AG 252 097-001. Minutes of the meeting of the Commission for External Activities held on 5 December 1951 – ICRC Archives, A PV.

\textsuperscript{123} Note of 29 January 1952 by F. Horneffer, cited above. Minutes of the meeting of the Commission for External Activities held on 6 February 1952 – ICRC Archives, A PV.

\textsuperscript{124} Report of 22 May 1952 by Dr Pflimlin on his trip to Amboina, cited above.

\textsuperscript{125} Minutes of the meeting of the Commission for External Activities held on 25 June 1952 and minutes of the working session of the Committee held on 3 July 1952 – ICRC Archives, A PV. Note of 7 August 1952 from the ICRC to J. Munier – ICRC Archives, B AG 200 097-001.

\textsuperscript{126} Reports of 31 August and 22 September 1952 by J. Munier on his trip to central Java, parts 1 and 2. Report of 14 August 1952 by J. Munier about western Java – ICRC Archives, B AG 200 097-001.
The delegate ascribed their refusal primarily to the general distrust caused by the conditions in which the first relief operation, requested and funded by the Amboina community in the Netherlands, had taken place and the fear that a new operation could be used for propaganda purposes by these circles. The marked reluctance of the Indonesian Red Cross to provide detailed reports on the use of the relief must also have played a role, as well as doubts about the legitimacy of ICRC involvement in a matter considered to be strictly internal.\footnote{Letter of 26 September 1952 from the Indonesian Red Cross to J. Munier, annexed to his note of 27 September 1952 to the ICRC. Note of 13 October 1952 by J. Munier – ICRC Archives, B AG 280 097-006 and B AG 252 097-001. Minutes of the meeting of the Commission for External Activities held on 13 January 1953 – ICRC Archives, A PV.}

In a meeting with the delegate on 20 November 1952, the president of the Indonesian Red Cross made it clear that it was better for the ICRC not to raise the issue of the South Moluccas again, as this conflict was considered over by the Indonesian government.\footnote{Note of 20 November 1952 by J. Munier – ICRC Archives, B AG 252 097-001.}

Seeing as the Indonesian authorities and Red Cross opposed any planned relief action in the South Moluccas, the ICRC asked its delegate to return to Geneva, without however closing the delegation. For, in its view, the planned double operation formed an indivisible whole.\footnote{Note of 4 December 1952 from the ICRC to J. Munier. Memorandum on Indonesia dated 6 December 1952 by G. Colladon – ICRC Archives, B AG 252 097-001 and B AG 200 097-003. Minutes of the plenary session of the ICRC held on 23 October 1952 and minutes of the meetings of the Commission for External Activities held on 12 November and 2 December 1952 – ICRC Archives, A PV.}

In September 1953, the ICRC decided to inform the Indonesian ambassador to Switzerland orally of the closure of its delegation in Jakarta. At the same time, it expressed its intention to maintain contact with the Indonesian authorities and Red Cross through periodic visits from its regional delegation in South-East Asia.\footnote{Minutes of the meeting of the Commission for External Activities held on 29 September 1953 – ICRC Archives, A PV.}

Thus, in 1954, Dr Lehner carried out a five-week visit to Indonesia, aimed at developing relations with the Indonesian Red Cross and promoting the Geneva Conventions of 1949, to which Indonesia had not yet acceded. From his meetings on the subject with the Indonesian authorities and Red Cross, the delegate understood that it was common Article 3, applicable to non-international armed conflicts, that posed a problem and that their objections were primarily the result of the ICRC’s action in the South Moluccas.\footnote{Minutes of the plenary session of the ICRC held on 2 September 1954 – ICRC Archives, A PV.}
Conclusion

From the end of the Second World War until the country’s independence in December 1949, the ICRC’s activities in Indonesia developed along pragmatic lines, according to the urgency of the needs and the military and political situation. Although the Netherlands never recognized that it was at war with the Republic of Indonesia and described its military interventions as “police operations”, the ICRC was able to play its role as a neutral intermediary between the belligerent parties and to assist victims on both sides, that is to say, Dutch and Indo-Dutch civilian internees in the hands of the Republic of Indonesia, Indonesian civilian victims of the fighting and the economic blockade imposed by the Netherlands, and Indonesian fighters and civilians captured by the Dutch armed forces.

Throughout the entire period, ICRC headquarters in Geneva gave its delegates considerable leeway to act as they saw fit, essentially relying on them to assess the situation and take the necessary steps. On the ground, the delegates succeeded in establishing relationships of trust with all the parties, in particular the authorities of the Republic of Indonesia and the future Indonesian Red Cross. Their activities were appreciated and recognized. Only visits to prisoners were slow to get started. This was in part the result of foot-dragging by the authorities, but also because the delegates were dealing with other emergencies at the same time. Then, after Charles Helbling left the delegation in October 1946, the ICRC was represented in Batavia by a succession of resident delegates who had little experience in the field of detention, which led to a lack of follow-up. This situation ended when Charles Aeschlimann, the delegate-general for South-East Asia, effectively took over management of the delegation in early 1948.

Later on, however, the ICRC’s insistence on taking action at all costs in the territories controlled by the “Republic of the South Moluccas” cost it the trust it had built up with the Indonesian authorities and the National Society. Thus, the saga of the aeroplane – whose Dutch origin was probably known to the authorities and the Red Cross in Jakarta, as well as its cargo intended for victims of the conflict in the breakaway territory – cast a shadow over all subsequent ICRC activities. Dr Pflimlin’s repeated attempts to penetrate the areas controlled by the “Republic of the South Moluccas” from Indonesian territory only made the situation worse, as did his efforts to obtain relief distribution reports, which the Indonesian Red Cross knew perfectly well were for the Netherlands Red Cross. In the end, the ICRC had to withdraw its delegate, after the Indonesian authorities informed it, in early 1952, that they had certain objections to the choice of Dr Pflimlin.132

The Indonesian government never accepted the ICRC’s position with regard to the South Moluccas conflict. It always considered that the ICRC’s assistance had unfairly strengthened the Amboina rebellion. It saw it not only as interference in the country’s

132 Note of 31 March 1953 by G. Colladon about the delegates in Indonesia – ICRC Archives, B AG 200 097-003.
internal affairs but as yet another attempt by the Dutch to regain a foothold in their former colony, an impression that was backed up by the publicity given by the Dutch to their support for the ICRC’s activities.

The ICRC founded its offer of services in the South Moluccas conflict on its statutory right of initiative and its right of initiative under Article 3 common to the Geneva Conventions of 1949, although this provision was not applicable de jure, as Indonesia was not party to the Conventions. The Indonesian government had nevertheless undertaken to observe this article, and the ICRC wanted to implement it in order to create a positive precedent. Moreover, its determination to be active on both sides of the front corresponded to the Red Cross principles of neutrality and impartiality.

Did that mean, though, that the ICRC was entitled to dispense with the Indonesian government’s permission to travel to the territories of the “Republic of the South Moluccas”, whereas Article 3 makes it clear that it may offer its services to the parties to the conflict but not oblige them to accept? For the ICRC, the interests of the victims must prevail above all. One can understand how the ICRC – alarmed by news of the fate of civilians in Amboina and pressed to act by the Netherlands Red Cross, which provided the necessary means – attempted to send a plane to the breakaway territory. But, had it succeeded, would this not have risked compromising its activities on the Indonesian side? After the fall of Amboina in December 1950, most of the victims were on Indonesian territory, so the ICRC was able to work there in cooperation with the Indonesian Red Cross, and Jakarta considered the conflict to be over. Despite having got its fingers burnt in the first attempt, and although the authorities of the “Republic of the South Moluccas” were at no time able to let it know how to get in touch with them on the ground, the ICRC nonetheless continued doggedly along the same path.

In its desire to act, the ICRC seems to have let itself be “instrumentalized” by the Netherlands Red Cross, its donors and the representatives of the “Republic of the South Moluccas”, an entity never recognized by any State. It also seems to have taken insufficient account of the situation of Indonesia, a newly independent country that had to consolidate its position on both the international and domestic levels, and where national feeling ran high. While the Jakarta government was dealing with other extremist groups that caused more victims in Java alone, the ICRC’s fixation with the South Moluccas could only look suspicious. When the ICRC finally realized this, it was too late. Indonesia’s non-adherence, until 1958, to the Geneva Conventions of 1949 was a direct consequence of this.133

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133 This conclusion is based primarily on the following documents: Debriefing by Dr Lehner on his return from Indonesia, on 16, 19 and 21 March 1951. Note of 29 January 1952 from F. Horneffer to the Commission for External Activities. Confidential letter of 29 May 1953 from the Swiss Federal Department of Foreign Affairs to the ICRC. Letter of 13 January 1955 from the ICRC to its delegate in Saigon – ICRC Archives, B AG 200 097-003, B AG 252 097-001 and B AG 200 097-001. Minutes of the meeting of the Commission for External Activities held on 25 June 1952 – ICRC Archives, A PV.
After the fall of France in June 1940, Japan occupied Indochina and gradually extended its influence in the region by virtue of political and military agreements concluded with the Vichy government. It was only at the cost of repeated humiliations, which discredited them in the eyes of the Vietnamese, that the French clung to a semblance of power in Indochina until 9 March 1945, the date marking Tokyo’s ousting of the colonial administration and army. While Japan waged a war of conquest in South-East Asia, it was also spreading an image of the superiority of the yellow race and the idea of pan-Asianism, thereby arousing nationalist sentiment.

By 1941, Ho Chi Minh was already preparing his return to Vietnam from China after 25 years largely spent studying socialism, and then communism, in France and in Moscow. In May of that year, he founded and assumed the leadership of a resistance movement against the foreign presence in his country, denouncing collusion between Japanese expansionist ambitions and French colonialism. His movement, the Viet Minh (League for the Independence of Vietnam), was structured mainly around the Indochinese Communist Party, which he had founded in 1930 following the crushing of anti-colonialist uprisings in Vietnam. Unlike other nationalist parties, the Viet Minh not only demanded independence but wished to transform society and to install a broad-based government. It accordingly set about infiltrating all sectors of national life. The Japanese takeover in March 1945 and the defeat of Japan in August created new possibilities for Ho Chi Minh, thanks to the ultimate destruction of all French and Japanese authority. On 13 August, the Viet Minh ordered a general uprising and effectively gained control of the northern provinces, after forcing Emperor Bao Dai to abdicate and setting up political and military commandos throughout the peninsula. This was done before foreign troops could establish a foothold in Indochina under the Potsdam Agreements, whereby Chinese forces were to disarm Japanese troops.

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2 The Potsdam Conference brought together in the Berlin suburb, from 17 July to 2 August 1945, Stalin, Truman, who had just succeeded Roosevelt following the latter’s death a few weeks earlier, and Churchill, who was replaced by Clement Attlee on 26 July when the results of the general elections became known. As the first summit meeting of the leaders of the “Grand Alliance” following Germany’s capitulation, the Potsdam Conference not only had the task of deciding the
17. French Indochina
to the north of the 16th parallel and British forces those to the south. Ho Chi Minh took advantage of this situation to proclaim the restoration of national independence and the creation of the Democratic Republic of Vietnam (DRV) in Hanoi on 2 September 1945.

But France had entered Indochina as early as 1858. From 1885 on, it had dominated the peninsula comprising Cambodia, Laos and Vietnam (divided into the two protectorates of Tonkin and Annam and the colony of Cochinchina), and it held considerable economic, financial, cultural and religious sway. France therefore intended to recover sovereignty over this part of its colonial empire as it was doing by force of arms in North Africa and would later do in Madagascar. In agreement with the British, France set out to reoccupy Cochinchina. It also dispatched an expeditory force under General Philippe Leclerc to retake control of Saigon, appointing Admiral Georges d’Argenlieu as high commissioner of France in the autumn of 1945. France then negotiated with the Chinese their evacuation of Tonkin and their recognition of French sovereignty there.

Willing to grant self-governing status to the new republic, France concluded that it was necessary to reach an *entente* with the Viet Minh, who were themselves harbouring misgivings about China’s territorial ambitions. On 6 March 1946, a Franco-Vietnamese agreement was signed under which the DRV became a Free State within the French Union and the Indochinese Federation, which included Laos and Cambodia. Vietnam agreed to the return of the French army, which was to take over from Chinese troops and assist in creating and training the Vietnamese army. France undertook to respect the decision of the people, who were to be consulted by referendum concerning the reunification of the three Vietnamese provinces – the Viet Minh’s chief demand.

But France was pursuing a dual policy at the time: on the one hand, that of General Leclerc and Jean Sainteny, French commissioner in Tonkin, which aimed to establish Vietnam as a self-governing State within the French Union, in agreement with Ho Chi Minh; on the other, that of Admiral d’Argenlieu, inspired by the French in Cochinchina, which sought to restore French authority by force, partitioning Vietnam in the process.

As negotiations went ahead for the implementation of the agreement, the policy of High Commissioner d’Argenlieu culminated in the proclamation of the Autonomous Republic of Cochinchina on 1 June 1946. This was viewed by Ho Chi Minh’s DRV as a violation of the agreement of 6 March 1946.

The Conference of Fontainebleau, which started on 7 July 1946, failed to reconcile the French and Vietnamese views on the status of Vietnam within the French Union.

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fate of Germany, Poland and other countries of Central and Eastern Europe, but also dealt with further operations in the war against Japan. Nevertheless, the disappearance of the common enemy revealed such antagonism between the British and American statesmen and their Soviet ally that this third summit – after those of Tehran and Yalta – was also the last. In retrospect, the Potsdam Conference may be considered as the starting point of the Cold War.
It concluded with the signing on 14 September 1946 of a *modus vivendi*, which resolved none of the issues of greatest importance to the Viet Minh: independence, Cochinchina, the army and diplomatic relations.

Soon afterwards, the situation deteriorated. While attacks and acts of intimidation steadily multiplied in Cochinchina, serious disturbances took place in Tonkin. After a clash between French and Vietnamese troops in Haiphong harbour, the French navy bombarded the city on 23 November 1946, killing thousands of civilians.

Peace-seeking endeavours failed: Vietnam wanted independence, and France was out to reassert its sovereignty. Agreement could no longer be reached. On 19 December 1946, fighting broke out between the Viet Minh militia and French troops, which attacked the DRV’s presidential headquarters in Hanoi. Ho Chi Minh’s government left the capital, calling for a general insurrection. DRV forces withdrew to the Tonkin highlands, taking with them more than 200 French civilians as hostages.

These events marked the start of the First Indochina War, which pitted France and the DRV against each other, while the USSR, the United States and the People’s Republic of China, three players with considerable influence over the main protagonists, remained active behind the scenes.

The USSR’s aim was to weaken and drive France out of Indochina; it supported the DRV out of ideological affinity.

The US position was ambivalent: Roosevelt pursued the strategy of evicting the French from Indochina in favour of China, his ally against Japan. For a time the Americans were favourable to the Viet Minh in the name of anti-colonialism but later turned away from them on realizing the revolutionary character of Vietnamese resistance. They nevertheless withheld their support from France until 1950. With the emergence of the People’s Republic of China and the start of the Korean War, the US reviewed its policy. The ideological alignment of the DRV with North Korea led the Americans to perceive the war in Indochina as one of the fronts on which to stem the advance of communism, and it consequently shifted its support to France.

The People’s Republic of China backed the DRV. The arrival of Chinese communists at the Vietnamese border consolidated the Franco-American *rapprochement*. From that point on, the French armed forces took on the role of defending what they saw as the “free world” against the advance of communism in South-East Asia.

The proposals for a ceasefire and for the resumption of negotiations put forward by both sides fell through in 1947 and, in the autumn, all hope of a peaceful settlement between France and the DRV was abandoned. The French government, dominated chiefly by the Popular Republican Movement, decided to seek a solution to the conflict by circumventing Ho Chi Minh. Its objective was to form another Vietnamese State
under the aegis of Saigon and completely eliminate the DRV. It decided to recall the former emperor Bao Dai, who could rally right-wing nationalists around himself to form a counterweight to the revolutionary nationalism of Ho Chi Minh, and to install a regime in Vietnam that would make it possible to safeguard to some extent most of France’s positions.

Knowing that he would lose all credibility if he failed to achieve unity and independence, Bao Dai initially allowed a provisional central government to be set up in Saigon in May 1948 with General Xuan at the helm. On 5 June 1948, in Ha Long Bay, he countersigned the joint declaration by General Xuan and the high commissioner, Emile Bollaert, whereby France recognized Vietnam’s independence, the country then being left free to achieve unity. At the same time, Vietnam joined the French Union as an Associated State.

Supported by the US, Bao Dai promptly launched fresh negotiations with France to achieve true independence. Under such pressure, the French government made major concessions and an agreement was signed between Bao Dai and President Vincent Auriol in Paris on 8 March 1949 whereby France recognized Vietnam’s independence and unity, pending consultation of the people. Once the reunification of Cochinchina with Vietnam was approved by vote and Vietnamese unity restored for the first time in 87 years, Bao Dai solemnly constituted the State of Vietnam in August 1949; France handed over sovereign powers and many services to it at the end of the same year.

Through 1947 and 1948, the government of the DRV, still hoping for the resumption of negotiations with either France or Bao Dai aimed at the joint establishment of a national and democratic regime, followed a reserved and cautious approach. While it continued its guerrilla activities, it was at the same time conserving its strength. But all hope of compromise was lost with the proclamation of the State of Vietnam.

As of 1950, Vietnam became a focal point of East/West confrontation. Aided by China, the DRV, declaring itself to be the sole legitimate Vietnamese State, launched a military offensive in September 1950, in the north, during which thousands of people were killed or taken prisoner. France and the US, for their part, were training and equipping a Franco-Vietnamese army. In Vietnam, as in Korea, it was a matter of containing Chinese expansionism and halting the spread of communism.

After a series of French victories in early 1951 that took a heavy toll on the troops of General Giap, head of the DRV forces, the military advantage gradually shifted during the summer to the DRV, which again resorted to guerrilla and harassment tactics.

Heavy losses forced France in 1952 to abandon most of its positions in Tonkin and in the Thai region, as guerrilla activity intensified in central and southern Vietnam. In 1953 Giap’s army invaded central and southern Laos and north-eastern Cambodia.

In March 1954, Giap laid siege to Dien Bien Phu, which fell on 7 May; French losses amounted to some 7,000 dead and 11,000 prisoners, while the enemy dead numbered 8,000. The Geneva Conference opened on the same day, attended by France and its Associated States (Vietnam, Laos and Cambodia), France’s allies (the US and Great Britain), the USSR, the DRV and the People’s Republic of China. So great was the interest of the powers in an expeditious end to the war that a compromise was
struck. On behalf of France, Pierre Mendès France signed an agreement on 20 July 1954 providing for a ceasefire and the regrouping of DRV and French Union forces on either side of the 17th parallel; this was to serve as a provisional military demarcation line between the northern zone, under the control of the DRV, and the southern zone, which was assigned to the State of Vietnam. The two zones were to consult with each other in 1955 with a view to holding elections and setting up a unified government by July 1956.

**Offers of services**

Upon his arrival in Saigon in August 1945, ICRC delegate Henri Hurlimann placed himself at the disposal of the Anglo-American authorities, who gave him the task of providing food for Allied prisoners of war held in two Japanese camps in Saigon until their repatriation one month later. The gradual repatriation of some 65,000 Japanese prisoners of war and civilian internees, which took place without ICRC involvement, and the setting up of various support institutions enabled the delegate to devote himself to forwarding family messages and to delivering aid to certain categories of civilians until the closure of the delegation in May 1946.

As the conclusion of the Franco-Vietnamese agreement on 6 March 1946 obviated the need for a delegate in Tonkin, the ICRC reorganized its delegations in South-East Asia by appointing Charles Aeschlimann as its delegate based in Singapore, but also covering Hong Kong, Malaysia, Siam and Indochina. The French government approved this appointment.

Clashes between French forces and DRV troops led, in late 1946, to the capture of civilian and military prisoners on both sides. The ICRC immediately offered its services to the French government, which did not initially deem them necessary, as it did not view the events as representing a state of war in the legal sense of the term. The government argued that the clashes were an internal matter within the framework of the French Union and within the confines of domestic law. For this reason, it did not consider itself bound by the 1929 Geneva Conventions with regard to the DRV – which it viewed as a band of rebels – these Conventions being intended to apply to armed conflicts between States. The DRV furthermore did not enjoy

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4 Letter of 6 February 1946 from the headquarters of the Supreme Allied Command, South-East Asia, to H. Hurlimann; Letter No. 8 of 18 April 1946 from the ICRC to H. Hurlimann – ICRC Archives, B G 17/69.
5 Letter of 29 June 1946 from the Ministry of Foreign Affairs to the head of the ICRC delegation in France – ICRC Archives, B G 17/69 II.
6 Memorandum addressed to C. Aeschlimann and delivered on 26 January 1947 by M. Royère, diplomatic counsellor to the high commissioner. Note No. 5544 of 7 January 1947 from the ICRC’s Paris delegation – ICRC Archives, B G 17/69 II.
international recognition when the conflict broke out nor was it a party to the 1929
Conventions. This situation considerably limited the ICRC’s room for manoeuvre
and, since it could not invoke the Conventions as a basis for action, it made use of its
right of initiative to offer its services.

The French authorities in Hanoi and Saigon, however, disquieted by the plight
of 425 civilians detained by the Viet Minh, announced that they wanted an ICRC
delegate to be sent to Indochina. On 13 January 1947, the French commissioner in
Tonkin, Jean Sainteny, was informed of Aeschlimann’s imminent arrival.7

In the meantime, the ICRC appointed a Dutch clergyman, Father Willigers, to
act on its behalf. He immediately wrote to Ho Chi Minh, president of the DRV, as
follows: “I am at your disposal to care for prisoners held in Hanoi and elsewhere by
the French army. I stand ready to act as their intermediary, whether for the exchange
of correspondence or to furnish them in so far as possible with clothing, medicines or
additional food supplies. (...) However, just as I am willing to visit and bring physical
and moral solace to Vietnamese nationals held by the French, I would also request of
you the facilities necessary to be able to visit and render similar services to prisoners of
other nationalities detained by the Vietnamese.”8 A similar initiative was taken with
respect to the commander of the French forces in order to “establish contact with
Vietnamese prisoners held by the French army and provide them with the Red Cross
services that are usual in such circumstances”.9

Soon after arriving in Saigon on 23 January and in Hanoi on 29 January,
Aeschlimann took up initial contacts with the French and the DRV authorities
respectively, and with their Red Cross organizations, so as to ensure that all victims
of the conflict were treated humanely, regardless of nationality, race or religion.10

Efforts to visit prisoners in Vietnamese hands

Having been put in touch with Hoang Minh Giam, future minister of foreign affairs
of the DRV, and with Dr Tung of the DRV Red Cross, Aeschlimann was told that he
could see any places he chose in DRV-controlled territory.11 Thus, on 7 February 1947,
he visited the Hoa Binh camp housing 171 French prisoners, to whom he brought

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7 Telegram No. 9610 of 13 January 1947 – ICRC Archives, B G17/69 II.
8 Letter of 17 January 1947 from the provisional ICRC delegate, Father Willigers, to the president of
the DRV, Ho Chi Minh – ICRC Archives, File B G 17/69 II.
9 Letter of 19 January 1947 from the provisional ICRC delegate, Father Willigers, to the commander
of the French forces in northern Indochina, General Morlière – ICRC Archives, B G 17/69 II.
10 Note of 20 January 1947 from the head of the Delegations Division, R. Voegeli, to C. Aeschlimann
in Saigon – ICRC Archives, B G 17/69 II. At the time, the Red Cross of the DRV did not yet meet
all the conditions for recognition as a member of the International Red Cross.
11 Letter of 8 February 1947 from the deputy minister of the interior of the DRV, Hoang Huu Nam;
Note No. 6188 of 17 April 1947 from the ICRC’s Paris delegation on the Giam/Aeschlimann
meeting of 21 February 1947 – ICRC Archives, B G 17/69 II.
food and medicines, and noted that their treatment was generally satisfactory. On the following day he saw 10 people who had been captured on 22 December 1946. In response to his official request for the release of women, children and the elderly, 29 civilians (19 French and 10 British nationals) were handed over to him at the end of February 1947 on the Hanoi/Hadong highway during a ceasefire.

On 25 April, Aeschlimann and his successor, Dr Pierre Desœuxdres – together with Professor Pierre Huard, president of the French Red Cross in Hanoi, and a representative of the Chinese Consulate – held a meeting with Dr Tung between the front lines at the Rapids Bridge near Hanoi to discuss the fate of civilian and military prisoners. They gave him correspondence, aid and medicines intended for internees and for the DRV Red Cross.

The meetings continued between the front lines until July 1947, although they were difficult to organize, not only because of the complete destruction of communication facilities, but also because a ceasefire had to be negotiated. Desœuxdres wrote of the meeting of 7 May as follows:

On the Vietnamese side, the ceasefire order had been given. We immediately replied, confirming our agreement and requesting the French military authorities also to institute a ceasefire at the said time and place (...) We had a long discussion regarding all issues of concern to the ICRC. Mr Giam stated his readiness to grant every facility to the ICRC delegate for the accomplishment of his mission, which had become extremely difficult owing to the complete chaos created in Vietnamese territory by military operations: roads were either cut off by barricades or mined, means of transport were virtually non-existent over considerable distances, and material conditions were very poor.

On 7 May, the two delegates met Dr Tung and Hoang Minh Giam, by then appointed minister, whose permission they requested to revisit the camps for French internees. The negative reply, communicated to the ICRC on 19 May, was justified by “serious material difficulties.” On 22 June a new appointment was arranged:

With the aid of the French military authorities, we made the necessary arrangements for our journey. On 22 June at 6:30 a.m., we left Hanoi aboard two French naval landing craft and sailed slowly up the Red River against a very strong current as the river was swollen. At 10 a.m. we passed the last French post without incident and arrived at the appointed place at 12:30 p.m. A Vietnamese boat was awaiting us, moored to the shore and flying the Vietnamese and Red Cross flags. A Vietnamese military detachment

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12 Note No. 5837 of 17 February 1947 from the ICRC’s Paris delegation – ICRC Archives, B G 17/69 II.
13 Telegram No. 6267 of 10 March 1947 from C. Aeschlimann – ICRC Archives, B G 17/69 II.
15 Letter No. 2 of 9 May 1947 from P. Desœuxdres – ICRC Archives, B G 17/69 II.
16 Letter No. 3 of 23 May 1947 from P. Desœuxdres – ICRC Archives, B G 17/69 II.
paid us honours (in the presence of French military personnel!) and the British and Indian consuls and I disembarked. We were received at the little school in a neighbouring village by the local dignitaries, by Mr Hoang Minh Giam, minister of foreign affairs of the Democratic Republic of Vietnam, and by Dr Le Van Hieu, delegate of the Vietnamese Red Cross.\footnote{Letter No. 8 of 23 June 1947 from P. Descoeudres – ICRC Archives, B G 17/69 II.}

Hoang Minh Giam announced that it was still not possible to visit the prison camps, whereas the request for the release of women, children, the sick and the elderly might receive some consideration.

On 18 July, Descoeudres again met with DRV Red Cross representatives. He described that meeting as follows:

I went to the Rapids Bridge in my jeep flying the Red Cross and American flags (I was in fact accompanied by an American journalist who was hoping to be able to enter Vietnamese territory, but this was refused), followed by two trucks transporting all the parcels destined for prison camps and French internees. At about one kilometre from the last French post, between the front lines, was a partly destroyed pagoda where we awaited the Vietnamese representatives. It was a long wait. Shortly after 1 p.m. (the appointment having been set for 10 a.m.), we sighted the Vietnamese party against the horizon walking along the dike, preceded by the Vietnamese and Red Cross flags. We advanced to meet them and accompanied them back to the pagoda. (...) We separated at 3 p.m., whereupon I requested the French authorities to prolong the ceasefire until 6 p.m. to allow the Vietnamese enough time to take all our parcels away.\footnote{Letter No. 19 of 19 July 1947 from P. Descoeudres – ICRC Archives, File B G 17/69 III.}

Descoeudres delivered a letter addressed to President Ho Chi Minh requesting the release of certain categories of internees. In his reply, delivered by hand on 21 August, Ho Chi Minh stated: “We are still prepared to grant your wish as soon as material conditions permit.”\footnote{Letter of 29 July 1947 from Ho Chi Minh – ICRC Archives, B G17/69 III.}

During these meetings, Descoeudres delivered aid, funds, vaccines and DDT to the DRV representatives and also passed on correspondence from prisoners. He informed them of his visits to Vietnamese prisoners in French hands, though his requests to visit French prisoners received only evasive replies. In late July, he made a radio appeal to the DRV authorities urging them to grant him a new appointment with a view to “the release of internees that was promised so long ago”, which “[would] be a token of the goodwill of the Vietnamese government towards the work of the ICRC”. Failing that, he would return to Switzerland and report back to the ICRC.\footnote{Letter No. 21 of 27 July 1947 from P. Descoeudres – ICRC Archives, B G17/69 III.} He returned to Geneva at the end of August 1947.
Visits to prisoners in French hands

While he was in Hanoi in February 1947, Charles Aeschlimann, in accordance with the principle of impartial assistance to all victims, visited 193 Vietnamese prisoners of war at the Citadel and at Yersin Hospital, and four centres accommodating some 2,000 women and children.\(^{21}\) This visit, made at the delegate’s own initiative, drew protests from the Saigon authorities, who had not been consulted and who wished to limit the activities of the ICRC strictly to “civilians unduly detained by the Viet Minh”.\(^{22}\)

The Quai d’Orsay, to which the ICRC explained that its activities in Indochina were based on the principle of reciprocity, immediately telegraphed instructions to Saigon for the ICRC delegate in Indochina to be allowed to carry out his tasks, within the traditional framework of neutrality and independence, for all civilian and military victims of the conflict regardless of their allegiance, and for the High Commission to accord him all necessary facilities.\(^{23}\)

Thereafter, and with the arrival of Emile Bollaert as the new high commissioner, the Saigon authorities modified their approach, authorizing the ICRC to visit the two main camps of Vietnamese prisoners in French hands in Hanoi on 23 April 1947, various camps in the Hanoi region on 11 and 12 June, and the prison together with some camps in Haiphong on 27 June. Descœudres approached the Hanoi and Saigon authorities on several occasions calling for an improvement in the conditions of detention. These initiatives did produce some results.\(^{24}\) Following a visit to the central Saigon prison, the delegate went to the Pulo Condore camp on 10 July at the express request of the DRV representatives. He furthermore obtained lists of Vietnamese prisoners in French hands in Hanoi and in Saigon, in an endeavour to arm himself with the most cogent arguments for negotiating with the DRV authorities the release of the French civilians in their power.

As the French government\(^{25}\) maintained that the events in Indochina were confined strictly to the domain of domestic public law and that the military operations did not legally constitute a state of war, the ICRC did not send official reports on its visits to either of the parties involved, as it usually did in connection with international armed conflict. It did, however, keep both sides informed of the steps it took and dispatched a brief memorandum to Ho Chi Minh on the activities carried out by its delegate to assist Vietnamese nationals held by the French authorities.\(^{26}\)

\(^{21}\) Letter of 26 March 1947 from C. Aeschlimann; Note No. 6188 of 17 April 1947 – ICRC Archives, B G17/69 II.

\(^{22}\) Telegram of 15 March 1947 from the high commissioner of France in Saigon – ICRC Archives, B G 17/69 II.

\(^{23}\) Note No. 6228 of 9 April 1947 from W. Michel to the ICRC – ICRC Archives, B G 17/69 II.

\(^{24}\) Letters No. 10 of 28 June 1947 and No. 14 of 5 July 1947 from P. Descœudres – ICRC Archives, B G 17/69 II and III.

\(^{25}\) Memorandum addressed to C. Aeschlimann and delivered on 26 January 1947 by M. Royère, op. cit.; Note No. 5544 of 7 January 1947, op. cit. – ICRC Archives, B G 17/69 II.

\(^{26}\) Letter of 1 September 1947 from the ICRC to the president of the DRV – ICRC Archives, B G 17/69 III.
Other categories of victims

Desœudres was also responsible for enquiring after the fate of Spanish missionaries and Chinese or Indian nationals held by the DRV. In a meeting on 7 May 1947 with Hoang Minh Giam, he learned that the Spanish missionaries were free, that they were pursuing their activities and that they did not wish to be evacuated to the French zone.\footnote{Letter of 22 May 1947 to the Legation of Spain in Bern – ICRC Archives, B G 17/69 II.} After talks between British and Chinese consular representatives and the DRV authorities during the Rapids Bridge meetings on 25 April and 7 May 1947, the ICRC was no longer considered directly responsible for Chinese and Indian nationals affected by the events.

In addition, on two occasions in 1947, Desœudres visited the Khan Hoi camp in Saigon for Japanese prisoners and civilian internees who were being repatriated.

Continuation of ICRC work

Desœudres’s departure did not signal the end of the ICRC’s work in Indochina, as his colleague, Charles Aeschlimann, continued to follow the situation closely from the delegation in Singapore.

High Commissioner Bollaert, who had at first envisaged dispensing with the ICRC’s presence in view of the persistent stalemate over the question of French civilians held by the DRV, was ultimately in favour of the ICRC continuing its work, so long as it was not a one-way operation and the ICRC could exercise its mandate on DRV-controlled territory.\footnote{Letter of 28 August 1947 from the high commissioner to the ICRC – ICRC Archives, B G 17/69 III. Note on the ICRC’s activities in Indochina, undated – ICRC Archives, B G 17/69 II.} He was given every assurance in that regard by the ICRC,\footnote{Letter of 3 September 1947 from the ICRC to the high commissioner – ICRC Archives, B G 17/69 III.} which also informed him that it had approached Ho Chi Minh to obtain permission to visit French internees.\footnote{Letter of 23 February 1948 from C. Aeschlimann to the high commissioner – ICRC Archives, B G 17/69 III.}

During a brief trip to Indochina in December 1947, Aeschlimann realized that it was impossible to establish contact with representatives of the DRV and limited himself to renewing contact with the French Red Cross and the French authorities. In February 1948, he again visited Indochina, where he learnt that France no longer recognized the Ho Chi Minh government and that Bollaert was opposed to the renewal of contacts with the DRV in Indochina as envisaged by the delegate.\footnote{Letter of 1 September 1947 from the ICRC to the president of the DRV. Report No. 12 of 2 March 1948 by C. Aeschlimann – ICRC Archives, B G 17/69 III.} Nevertheless, the high commissioner authorized him to hand over to the DRV Red
Cross half a consignment of medical and other relief supplies donated by the Indian Red Cross, provided that the remainder went to the French Red Cross for distribution to the Vietnamese population in French-controlled territory. But the Indian Red Cross disapproved of this plan and sent the entire consignment to Bangkok for delivery to DRV representatives.\(^{32}\)

In August 1948, the ICRC delegation in Paris reiterated to the French government the organization's views on the humanitarian aid required by various categories of victims on both sides of the conflict in Indochina.\(^{33}\) In early December and again in March 1949, Aeschlimann discussed the matter with the new high commissioner, Léon Pignon, who promised him support and facilities.\(^{34}\)

Finally, in March and May 1949, a donation entrusted to the ICRC by Vietnamese living in France was partially used to provide assistance in the form of food, clothing and medicines for prisoners in French hands, the rest having been given to the DRV delegation in Bangkok in December 1948.

**Efforts to reconnect with the DRV**

In an effort to resume contact with the DRV, Aeschlimann turned to the latter's South-East Asia representatives in Bangkok. He discussed with them various means of passing on to the DRV Red Cross the donations entrusted to him and renewed his request for permission to visit the French prisoners. The representatives, whom he met twice in the autumn of 1948 and to whom he expressed his disappointment at failing to obtain a favourable reply, informed him in December that the French offensive in the north made it impossible to move about in safety.\(^{35}\)

Aeschlimann then tried to take up contact with the Nambo health service run by DRV supporters fighting in the south. On 21 May and again on 27 July 1949, he launched a radio appeal jointly with the French Red Cross requesting facilities for the exchange of correspondence and of information on military and civilian prisoners. The Nambo service replied that such arrangements did not fall within its purview but within that of its government. It assured him, however, that French prisoners in southern Indochina were being well treated.\(^{36}\)

This refusal led the ICRC to approach the DRV president directly. In its letter to Ho Chi Minh, delivered to Ho's representatives in Bangkok, it described its activities

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32 Minutes of the meeting of the Delegations Commission held on 12 July 1948 – ICRC Archives, A PV.
33 Note No. 9229 of 18 August 1948 from W. Michel to the ICRC – ICRC Archives, B G 17/69 III.
34 Note No. 9707 of 30 March 1949 from the ICRC to its Paris delegation. Letter No. 11/49 of 12 April 1949 from C. Aeschlimann – ICRC Archives, B G 17/69 III.
35 Letter No. 375/2688 of 2 December 1948 from C. Aeschlimann – ICRC Archives, B G 17/69 III.
36 Minutes of the meeting of the Delegations Commission held on 12 October 1949 – ICRC Archives, A PV. Letter of 16 September 1949 from the DRV – ICRC Archives, B G 17/69 III.
in Indochina, especially those benefiting Vietnamese nationals, and requested an audience for its delegate to discuss a relief operation for internees and for the civilian population in general, especially hard hit by the conflict. It further indicated its willingness to allow its delegate to stay as long as necessary in the territory of the DRV.\textsuperscript{37} This initiative went unanswered.

The ICRC became increasingly concerned about developments in China and Indochina. The People’s Republic of China, proclaimed on 1 October 1949, and later the USSR, both recognized the DRV and the Ho Chi Minh government in January 1950. In February, the United States and Great Britain recognized the State of Vietnam and the Bao Dai government, to which France had transferred its powers on 30 December 1949, and the governments of Laos and of Cambodia. Assured of the support of China, which was supplying it with modern weaponry, the DRV was then in a position to field a well-equipped army and to back up its guerrilla tactics with large-scale operations. Disquieted by this situation, the US increased its supplies of military equipment to France. On the ground, military engagements increased and the number of prisoners grew on both sides.

The ICRC urgently needed to gain a clear picture of its scope of action in Indochina and to know Ho Chi Minh’s position on the Geneva Conventions. It asked Pandit Nehru, a well-known Viet Minh sympathizer, to intercede on its behalf with the authorities of the DRV.\textsuperscript{38} Throughout 1950, the ICRC repeatedly attempted to establish contact with the DRV and to explain to its representatives in Bangkok, with whom it held several meetings, and to those in Rangoon, the humanitarian aim and the neutral and impartial nature of its activities.\textsuperscript{39} During missions to Burma by Dr Roland Marti in July and by Frederic Siordet in December, it renewed its offers to engage in such activities in territories under the control of Ho Chi Minh. The replies, which indicated a favourable attitude towards the principles of the Geneva Conventions, nevertheless produced very little by way of tangible results.\textsuperscript{40} In May 1950, however, the DRV radio station, The Voice of Vietnam, started broadcasting messages from French civilian and military prisoners, as Aeschlimann had repeatedly requested.\textsuperscript{41}

\textsuperscript{37} Letter of 25 November 1949 from the ICRC vice-president, M. Bodmer, to Ho Chi Minh – ICRC Archives, B G 17/69 III.

\textsuperscript{38} Letter of 18 April 1950 from P. Ruegger to J. Nehru and reply of 24 April 1950 from J. Nehru to P. Ruegger – ICRC Archives, B G 17/69.


\textsuperscript{41} Letter of 24 March 1950 from C. Aeschlimann on his trip to Thailand. Letter of 20 May 1950 from C. Aeschlimann – ICRC Archives, B G 17/69 III.

19. Vietnam, 1951. ICRC visit to military prisoners in French hands, at the Nam Dinh camp in the north © ICRC (ICRC / CID, V P INDO N-00005-01)
Contacts between the French Red Cross and the DRV Red Cross

The French Red Cross, well established in Indochina, had closely monitored initial contacts between the ICRC and representatives of the DRV in 1947. Pierre Huard, president of the French Red Cross in Hanoi, had even accompanied ICRC delegates during their talks in April at the Rapids Bridge. After the departure of Descœüedres and thanks to Huard, who had contacts in the DRV-controlled zone, the French Red Cross was able to meet representatives of the DRV Red Cross on 4 October 1947 and again on 10 January 1949. These meetings led to the exchange of aid and correspondence across the front lines.

In September 1950, the French Red Cross gave Aeschlimann a list of 52 French civilians detained since December 1946, whose release had been negotiated directly between the High Commission and the Ho Chi Minh government, and also reported to him on the recent exchange of prisoners that had taken place while he was still in Singapore. 42

In October, the French Red Cross assisted with the evacuation from That Khe of 180 wounded prisoners who had been handed over to it by the DRV Red Cross, using its planes to fly them out. In November, it succeeded in obtaining an initial list of prisoners and wounded non-commissioned officers and soldiers who had been freed. It also secured certain facilities for sending prisoners news of their families. 43 The French Red Cross kept up fairly regular contact with the DRV Red Cross in 1951, and this led to some exchanges of prisoners and correspondence.

Renewed contact with the DRV

While approaches to DRV representatives continued, Aeschlimann – appointed ICRC delegate on special assignment in March 1950 – paid several visits to prison camps controlled by the French authorities and obtained certain improvements in the treatment of the inmates. At the request of the high commissioner, he also visited some 27,000 Chinese nationalist refugees interned by the French authorities. 44 Marti, who took over from him in March 1951, conducted a series of visits to military prisoners held by the French in each of the three zones of Vietnam, and in Cambodia and Laos. 45

The resumption of contact with Ho Chi Minh’s representatives nevertheless remained a top priority. To that end the ICRC decided to dispatch medical aid for

42 Letter of 29 September 1950 from the French Red Cross in Indochina. Note No. 11963 of 3 October 1950 from the head of the ICRC’s Paris delegation, W. Michel – ICRC Archives, B G 17/69 III.
44 Ibid., p. 78.
45 Report by R. Marti on his assignment to Vietnam from 28 March to 9 June 1951, op. cit.
all categories of victims of the fighting in the territory of the DRV and to notify
President Ho Chi Minh accordingly. While returning from a trip to China, ICRC
President Paul Ruegger made a stopover in Hanoi to inspect preparations for this
relief operation.⁴⁶ He issued an urgent personal appeal to Ho Chi Minh, asking for
arrangements to be made to get the medicines to their destination. This appeal was
broadcast several times by radio in March and April 1951.⁴⁷ Upon his arrival on 23
May 1951 as the new head of delegation in Indochina, Paul Kuhne started paving
the way for the planned relief operation and once again addressed a message to Ho
Chi Minh on 29 May. On 26 June, he learnt through the High Commission, which
was monitoring all radio messages, that the DRV Red Cross had accepted the offer of
medicines. He replied the next day by radio broadcast to Ho Chi Minh, requesting
a meeting with his representatives or those of the DRV Red Cross in order to make
arrangements for the relief operation.⁴⁸

After various exchanges of radio messages, a meeting was set in Hung Hoa to the
north-west of Hanoi on 26 July between representatives of the DRV Red Cross and
delegates Paul Kuhne and Alain Daulte, who arrived aboard French naval vessels that
had been disarmed and fitted out with red crosses. The area designated for the meeting
had also been declared neutral territory by the military authorities on both sides. The
discussions focused on ways of carrying out the relief operation and the ICRC’s activ-
ities in Indochina in general.⁴⁹ Although their brief was strictly limited to relief issues,
Ho Chi Minh’s emissaries took note of the ICRC’s requests on other matters. Kuhne
stressed how anomalous and inconvenient it was for the ICRC to have a delegation in
the territory of only one of the parties to the conflict, explaining how much the ICRC
would value the DRV’s approval for a delegation to be set up or at least its consent to
carry out temporary assignments in its territory. He underscored the need for continu-
ous cooperation with the DRV Red Cross in such spheres as the exchange of lists
of prisoners, enquiries concerning missing persons and the forwarding of messages
between prisoners and their families. Kuhne also gave his hosts messages for French
detainees entrusted to him by the French Red Cross. The consignment of medicines
that he had brought with him was received with deep satisfaction, but the principle
of delegates taking part in the distribution of relief supplies was rejected. The meeting
ended with the promise of further discussions in the near future.

⁴⁶ During this mission, P. Ruegger met with Zhou Enlai, among others, to discuss the issue of
Indochina, though the minutes of this meeting are not on record in the ICRC Archives – ICRC
Archives, B AG 251 PR(34).
⁴⁷ Letter of 13 May 1951 from R. Marti to the DRV government, with two annexes on the appeals
of 22, 23 and 26 March 1951 and 1 and 2 April 1951 – ICRC Archives, B AG 200(69). RICR,
No. 388, April 1951, pp. 257–259.
⁴⁸ Note No. 12 of 28 June 1951 by P. Kuhne, with two annexes on the message from the DRV Red
Cross (26 June 1951) and the message from P. Kuhne to Ho Chi Minh (27 June 1951) – ICRC
Archives, B AG 200(69).
⁴⁹ Note No. 30 of 27 July 1951 by P. Kuhne – ICRC Archives, B AG 200(69).
A second meeting took place in mid-October 1951 at Hung Hoa but with different representatives who brought no answers to the questions put by the ICRC in July.\textsuperscript{50} The requests concerning enquiries, regular exchanges of information on detainees or missing persons, correspondence between prisoners and their families, and the \textit{de facto} application of the Geneva Conventions of 1949 were, according to them, under consideration by the relevant authorities. The DRV representatives also failed to bring lists of prisoners of war and internees held by their government, which the ICRC had requested in exchange for a second consignment of medicines. The meeting nevertheless provided an opportunity to pass on letters addressed to French prisoners; it also enabled the ICRC to offer its services for the exchange of sick or wounded prisoners and to raise again the question of sending a delegate to represent the ICRC in the DRV.

This meeting was the last one to be held between the DRV Red Cross and the ICRC. Appeals broadcast by the ICRC on 23 November 1951 and on 21 June and 2 September 1952 in an attempt to resume direct contact, and its enquiries regarding missing French troops addressed by radio to the DRV authorities, fell on deaf ears.\textsuperscript{51}

**Reorientation of ICRC activities**

The ICRC believed that, since the arrival of General Jean de Lattre de Tassigny in January 1951, the High Command had been placing less confidence than it would have hoped in its activities to help prisoners, the wounded and the sick in the hands of the DRV. Also the High Command was itself launching initiatives that could cause confusion as to the ICRC’s independence and neutrality, such as the solemn appeal on behalf of prisoners it made to its adversary at the end of July 1951 without informing the ICRC.\textsuperscript{52} The attitude of the high commissioner, whose control over the various players in Indochina and the entire communications network was preventing the delegation from working normally, drew protests from the ICRC in a telegram dated 28 December 1951:

> After two initial contacts across front lines with technical cooperation from military authorities, ICRC now doubts ability to continue these attempts from French-controlled territory in absence of necessary independence. Must therefore consider seeking other channels for humanitarian work on DRV-controlled territory, especially to help prisoners of war held by DRV. In any event, ICRC must be given assurance that:

> First, full confidence is placed in it concerning its necessary impartiality and its essential duty to help victims of conflict on both sides. To that end, it should be clearly understood that its delegation must be able to take up all contacts necessary to its work;

\textsuperscript{50} Account by P. Kuhne of his trip to Indochina. Minutes of the meeting of the Commission for External Activities held on 24 October 1951 – ICRC Archives, A PV.

\textsuperscript{51} ICRC Annual Report 1952, pp. 50–51.

\textsuperscript{52} Note No. 31 of 30 July 1951 by P. Kuhne – ICRC Archives, B AG 200(69).
Secondly, communication between ICRC Geneva and this delegation must not be hindered in any way that might cast doubt on the latter’s independence;

Thirdly, while maintaining fraternal contacts with French Red Cross in Indochina, ICRC must remain independent of the latter, as respective duties of both institutions are different.

ICRC hopes that pursuant to spirit of four 1949 Geneva Conventions signed and ratified by France, High Commission will be good enough to give it such assurances. ICRC requests this in keeping with its principles and practice and deems them necessary to continue its activities in Indochina via channels used hitherto. Highest consideration. President Ruegger.  

The firmness of this statement, contrasting as it did with the previous attitude of an ICRC that lacked a firm treaty basis for its action, was not unrelated to the entry into force of the Geneva Conventions of 1949 and their ratification by France, effective as of December 1951. Thereafter, the French authorities, while continuing to affirm that the conflict was not international in character, expressed their intention “to respect the spirit and, insofar as the specific conditions of the struggle in Indochina permitted, the letter of the provisions of the Geneva Conventions of 12 August 1949”.  

The replacement of General Lattre de Tassigny (who died in January 1952) by General Raoul Salan as commander-in-chief and the appointment of Jean Letourneau as high commissioner in early 1952, signalled a softening of the line maintained in respect of the DRV and of the ICRC delegation.

Indeed, the military authorities no longer opposed the delivery of medicines to the enemy, even in the absence of supervision of or guarantees as to their distribution; they even dropped medical supplies by parachute intended for camps holding French prisoners. The ICRC was assured that it would be accorded every facility and full freedom to pursue its activities in accordance with its customary procedures.  

Assigned to Saigon as of February 1952, André Durand cultivated good relations with the authorities, who placed at his disposal all the means necessary for him to accomplish his task. He did likewise with the French Red Cross which, after his radio appeals of 15 February and 22 March 1952, managed to arrange a meeting on 15 May 1952 with the DRV Red Cross at Hung Hoa, during which correspondence...
and medicines were handed over, though without reciprocation of any kind. Good cooperation was also established between the ICRC’s Central Prisoners of War Agency and the Prisoner Affairs Office, which was set up in January 1952 and run by the French army and the Red Cross and which centralized all aspects of tracing and enquiries concerning missing persons and the handling of correspondence addressed to prisoners.

To avoid any appearance of subordination to the French authorities or to the French Red Cross, the ICRC decided to separate very clearly the delegation’s protection and assistance activities in the zone controlled by the forces of the French Union in Indochina from its attempts to establish contact with the DRV in order to launch a relief operation. The ICRC thereafter ceased making radio appeals to the DRV from the State of Vietnam, preferring direct approaches to DRV representatives outside Indochina. Instructions were accordingly issued to Durand as follows: “experience would seem to indicate that in the event of conflict or disturbances within a country, the ICRC can hardly act effectively on both sides through a single delegate. In addition to material problems preventing the delegate from maintaining contacts with the party in whose territory he does not reside, there is the risk of being judged – erroneously of course – as being too closely linked to the other side, whereas the independence and impartiality of the ICRC must not be placed in doubt.” At the same time, the ICRC informed Letourneau that it deemed it preferable for its delegate in Indochina to refrain from personally seeking contact with the DRV and that it had decided to concentrate its activities on visits to military prisoners and internees (MPIs) held by French Union forces. It wished therefore to continue its visits to prisons and camps according to the same procedures as already agreed.

In addition to the 30 or so visits to MPI camps conducted in 1952 by the ICRC, roughly the same number took place in 1953 in Vietnamese, Laotian and Cambodian territory. These visits were generally fairly official in that the delegate was provided with escorts and means of transport by the authorities and was almost constantly accompanied by a French officer. Relations with the camp authorities were on the whole good: all facilities were accorded for visits to all premises and to consult camp records. Interviews without witnesses were freely allowed, though there was distrust and reticence on the part of prisoner spokesmen – known as caï – towards Swiss delegates, whom they equated with Frenchmen. It took repeated visits to win the

57 French Red Cross minutes of the meeting on 15 May 1952 – ICRC Archives, B AG 200(69). The ICRC did not attend this meeting.
58 Minutes of the working session of the Committee held on 5 March 1953 – ICRC Archives, A PV.
60 The French authorities drew a distinction between, on the one hand, prisoners who were regular Viet Minh troops, and, on the other, military internees consisting of civilians who had taken up arms, organized or participated in attacks or passed on messages or intelligence. Note No. 11 of 26 February 1952 by A. Durand – ICRC Archives, B AG 210(69).
confidence of the cai, to grow better acquainted with them and to get them to speak freely.\(^{62}\) Each of these visits, often followed by a distribution of relief supplies, afforded Durand an opportunity to convey orally to the detaining authorities recommended improvements, and these were generally made.\(^{63}\) Nevertheless, no official steps were taken before Dien Bien Phu in an attempt to avoid jeopardizing French authorization of ICRC access to camps.

At the request of the French authorities, an ICRC delegate, Dr Aguet, visited Chinese troops interned in Indochina in April 1953 before some 30,000 of them departed for Formosa.\(^{64}\)

**Approaches to DRV by headquarters in Geneva**

ICRC attempts to deal with the DRV through the intermediary of India proved fruitless. A visit by ICRC President Paul Ruegger to Moscow in November 1950 was no more successful. Attempts to resume relations with the DRV on the Asian continent were doomed to failure.\(^{65}\) Hence, after the reorientation of the activities of the delegation in Indochina, all attempts to communicate with the authorities of the DRV were made from Geneva, via the embassy of the DRV in Beijing. Among other things, the ICRC requested that the embassy forward mail addressed to French prisoners and letters from Vietnamese prisoners to their families in the DRV.\(^{66}\) This means of transmission via Beijing worked successfully until the signing of the peace accords. All messages addressed by the ICRC to the authorities of the DRV to apprise them of its activities, which it had been carrying out for two years to assist Vietnamese prisoners in French detention,\(^{67}\) to offer them medical supplies or to enquire about possible needs on the part of the DRV health services were also entrusted to this embassy.\(^{68}\)

\(^{62}\) Notes No. 11 of 26 February 1952 and No. 229 of 24 August 1953 by A. Durand. ICRC Archives – 210(69).

\(^{63}\) It should be recalled that, in the absence of reciprocity, the ICRC did not submit official reports to the French government; instead, it handed over lists of the issues raised to permit monitoring of the follow-up given during subsequent visits.

\(^{64}\) Minutes of the plenary session of the Committee held on 16 April 1953 and minutes of the working session of the Committee held on 25 June 1953 – ICRC Archives A/PV.

\(^{65}\) Visit to Moscow from 8–20 November 1950 during which P. Ruegger held talks with A. Gromyko, deputy minister of foreign affairs. The meeting had no precise agenda, but a review of the ICRC’s current activities had been envisaged. Although the Indochina question was included, no minutes of the meeting either with the Soviet Alliance of Red Cross and Red Crescent Societies or with government authorities are on file – ICRC Archives, B G. 3/Pra.


\(^{67}\) Letter of 24 December 1953 from L. Boissier to Hoang Minh Giam – ICRC Archives, B AG 200(69).

\(^{68}\) Letter of 19 September 1953 from L. Boissier to Ho Chi Minh. Letter of 17 February 1954 from ICRC Vice-President F. Siordet to Ho Chi Minh – ICRC Archives, B AG 280(69).
These approaches, however, remained to no avail. The ICRC failed to persuade the DRV to change its stance on access to its territory for ICRC delegates.

From Dien Bien Phu to the peace accords

The attack on the fortified garrison at Dien Bien Phu by General Giap’s troops, shelling by Vietnamese artillery and bombardment by French aircraft made it more difficult each day to protect the wounded of both armies in the conflict.

After accusations that French forces had been napalm-bombing medical units and evacuation convoys to the rear of DRV troops and transporting munitions in medical aircraft marked with the red cross emblem, several of their aircraft bearing the emblem came under enemy fire while evacuating the wounded.69

On 25 March 1954, the French government protested to the ICRC over this violation of the laws of war. In its reply two days later, the ICRC drew attention to the terms of Article 36 of the First Geneva Convention of 1949, under which the protection of medical aircraft is subject to agreement between the belligerents on the schedules, altitudes and itineraries used. In addition, the ICRC declared its readiness to convey to the enemy any truce proposals to facilitate the coordinated evacuation of the wounded from the fortified garrison.70 On that same day and after consultation with the ICRC delegate, General Henri Navarre appealed to General Giap to allow the wounded to be airlifted from the garrison, but without success. On 28 April 1954, the ICRC in Geneva renewed the appeal it had addressed to the two belligerents on 9 April asking that “those persons legitimately placed under the red cross sign be protected” and that “all measures be taken on both sides to allow for the evacuation of the wounded from the front and to guarantee full respect for medical facilities and means of transport bearing the Red Cross emblem”.71 This appeal furthermore suggested the creation of hospital zones to care for the wounded and the sick under the terms of the Geneva Conventions. However, it remained a dead letter and no practical action was possible in the field. On three occasions, Durand requested permission to visit Dien Bien Phu but was refused access “for reasons of security”.72

After the fall of Dien Bien Phu on 7 May 1954, direct talks on the evacuation of the wounded started between the parties early that same month at the Geneva Conference. The seriously wounded were exchanged without any intermediary,

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69 It should be noted that, whereas the State of Vietnam acceded to the Geneva Conventions of 1949 on 14 November 1953, no declaration with regard to application of the four Conventions was made by the DRV.


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though Durand was present in Laos when 850 wounded were repatriated from Dien Bien Phu in June. On 16 and 17 June 1954, he was also authorized to accompany a convoy carrying wounded DRV troops released by the French as far as the hand-over point outside Hanoi. That was the first unofficial meeting since October 1951 between an ICRC delegate and representatives of the DRV High Command, and it paved the way for further contacts during subsequent exchanges. Concerned about the plight of the prisoners taken at Dien Bien Phu – some 10,000 – and wishing to communicate to the families the names of the troops captured, the ICRC approached the DRV delegation at the Geneva Conference. In a letter to Pham Van Dong, DRV minister of foreign affairs, the ICRC offered its services to pass on lists of names of all prisoners, send food parcels to the prisoners held on both sides and deliver medicines for troops and civilian victims of the fighting.

The ceasefire agreement was reached on 20 July 1954; it provided for the release of prisoners within 30 days. With repatriation being supervised by an International Control Commission comprising representatives of Canada, Poland and India – the latter appointed to chair the group – the ICRC, which had not been given lists of prisoners, did not take part in the operation. From then on it could concentrate on the problem of refugees resulting from the agreement of 20 July.

Activities for refugees

Far from putting an end to ICRC activity in Indochina, the peace accords presented the organization with new tasks, leading it to increase its representation in the two Vietnamese zones by stationing Jacques de Reynier as delegate to the north of the 17th parallel, while André Durand, who continued his work in the southern zone and in Laos and Cambodia, was backed up by a new delegate, Nicolas Burckhardt, as of September 1954.

Since the Geneva accords gave the inhabitants of Vietnam the freedom to choose the zone in which they wished to live, some 800,000 persons flocked to the Tonkin assembly point for evacuation to the south, while there was virtually no movement from south to north. The massive exodus posed major problems for the government and for the Red Cross of the State of Vietnam, which, after consulting Durand,

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74 Minutes of the meeting of 12 May 1954 between ICRC representatives and the DRV delegation to the Geneva Conference – ICRC Archives, B AG 200(69).
75 Letter of 3 June 1954 from P. Ruegger to Pham Van Dong – ICRC Archives, B AG 200(69).
76 At the time, this Society, founded in 1951 and also known as the “Vietnamese Red Cross”, did not meet all the conditions for recognition as a full member of the International Red Cross. The same was true of the DRV Red Cross in the north.
requested the ICRC and the League of Red Cross Societies for help in organizing relief. A first appeal was promptly launched by the ICRC on 27 August 1954, followed by that of the League four days later. Both messages called on the generosity of National Societies and met with a favourable response. Cooperation was also forthcoming from other aid organizations such as the US Foreign Operations Agency, which had been active in the country for some time, the International Relief Committee and UNICEF.

The ICRC and the League agreed that, in the southern zone, the League’s delegate, Dr Thurler, would be responsible for receiving and coordinating relief supplies provided by National Societies and distributed by the Red Cross of the State of Vietnam, while ICRC delegates were entrusted with the distribution of supplies from the various aid organizations. ICRC delegates also visited refugees in camps and in clinics where the said Red Cross was caring for them. Jean de Preux, who succeeded Durand in May 1955, worked in coordination with the authorities, charitable organizations and UNICEF to assist refugees from the south and centre of the country; he continued to supervise the use of emergency supplies sent from the USA and stored in Saigon for distribution to refugee women and children.

**Activities for civilians**

In the northern zone, which had been more severely affected by the fighting, the ICRC offered its assistance to the DRV government in order to set up a programme of medical aid for civilians hard hit by the conflict. An ICRC delegate, Dr Aguet, was sent to make an on-the-spot assessment of the situation. But the authorities announced that they would request medical assistance if and when they needed it. The DRV Red Cross did in fact agree to take delivery of an ICRC donation of one tonne of medicines from de Reynier in May 1955. Negotiations continued throughout the year, first with de Reynier, then with Durand, who took over in July, for the delivery to the DRV Red Cross of relief supplies entrusted to the ICRC. By the end of 1956, when the ICRC’s mission in the DRV ended, more than eight tonnes of medical supplies had been delivered to the DRV Red Cross over two years.

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80 Note No. 16 of 25 August 1954 by J.P. Maunoir – ICRC Archives, B AG 200(69).
Conclusion

From the start of the conflict, the ICRC tried by every possible means to make contact either with the Red Cross or with the authorities of the DRV. Of its many initiatives spanning more than seven years, a few were crowned with success. These included its visit to a camp for French civilians, some of whom were freed in 1947, the exchange of correspondence across the front lines, the delivery of food and medicines, the broadcasting of family messages and, beginning in August 1953, the dispatch of mail to French prisoners via the DRV embassy in Beijing.

However, the ICRC failed to gain access to camps for prisoners held by the Ho Chi Minh government, and it was not allowed to monitor the distribution of aid that it handed over to the DRV Red Cross.

The fact that the ICRC was perceived as a Western player too closely linked to the French authorities, unable to maintain sufficient distance from them and highly dependent on them in logistical terms, was not unrelated to this failure. Its credibility as a neutral and independent intermediary was thereby seriously undermined. Despite numerous attempts to contact representatives of the DRV, it sometimes displayed restraint for fear of offending the French authorities. Parallel initiatives by those authorities and by the French Red Cross, which maintained direct contacts with the DRV, were not without implications for the way the latter perceived the ICRC’s role and activities. The Cold War context that pitted the communist bloc against the Western world and the ramifications of the Korean War, in which the ICRC was accused of serving Western interests, had further repercussions.

On balance, the ICRC’s humanitarian action was less limited on the French side. Indeed, by establishing a delegation in Saigon accredited to the French authorities, the ICRC from the very beginning signalled its will not to restrict its intervention merely to visiting hostages taken by Viet Minh forces, as those authorities were demanding. Despite certain difficulties that resulted mainly from the lack of reciprocity on the part of the DRV, the ICRC gradually extended its sphere of activity to protecting Vietnamese prisoners in French captivity and, starting in 1952, contributed significantly to improving their conditions of detention.

It is no less true, however, that being represented on only one side of the front lines considerably impeded the ICRC’s efforts to come to the aid of all victims of the conflict. The ICRC cannot be truly effective unless its activities are carried out on both sides of the fighting simultaneously and in full independence.

The history of the ICRC in the Vietnam War or Second Indochina War, which was similar to the First Indochina War in ideological, political and military terms, was also characterized by its endeavours to promote implementation of the Geneva Conventions and to carry out its activities throughout the territories of the warring parties and for all the victims. Though present and active in Saigon, the ICRC was never authorized to set up an office in Hanoi.
CHAPTER 11
ICRC activities on the Indian subcontinent following partition

Historical background

Partition and strife in Punjab

In 1945, at the end of the Second World War, the British government clearly stated its intention of granting independence to India.

The conflict between the British and the Indian nationalists subsequently receded into the background, while the increasing antagonism between Hindus and Muslims came to the fore. The Hindus, rallying around the Congress Party led by Jawaharlal Nehru and influenced by Gandhi, sought to maintain the unity of India by establishing a government made up of representatives from both communities. The Muslims, under the banner of the Muslim League, headed by Muhammad Ali Jinnah, demanded the creation of a separate Muslim State, Pakistan. The problem was further complicated by the fact that the approximately 300 million Hindus, six million Sikhs and 100 million Muslims in British India were not living in geographically distinct regions, especially in Punjab and Bengal, where the population was significantly mixed.

In 1946, bloody clashes broke out between Hindus and Muslims in Bengal and in the province of Bihar. Although they were isolated, they threatened to spread to the entire subcontinent.

Caught between two apparently irreconcilable positions, the British government accelerated the independence process. In February 1947, Lord Mountbatten was appointed viceroy of India. After some weeks of discussions with the leaders of the Congress Party and the Muslim League, Mountbatten concluded that it was impossible to maintain an independent and unified Indian State. Faced by the threat of a civil and religious war, he believed that the solution was to embrace a plan for partition, to which the leaders of the two parties agreed on 2 June 1947. The British plan was published the following morning and officially adopted later that month by the Congress Party, which reluctantly accepted the partition of India, and the Muslim League, which reconciled itself to the partition of Punjab and Bengal.

On 18 July 1947, the British Parliament passed the Indian Independence Bill, creating two independent States: India, made up of the provinces with a Hindu majority, and Pakistan, made up of those with a Muslim majority, both States having the status of dominions within the British Commonwealth. The provinces of Punjab and Bengal were also to be divided up between the two future States.
The process was complete, and independence was proclaimed on 15 August 1947. In the months that followed, the north of the subcontinent – especially Punjab, where the disturbances had started before independence – was beset by violence. The new border cutting Punjab in two left five million Sikhs and Hindus on the Pakistani side and five million Muslims on the Indian side. The partition caused widespread carnage and an unprecedented exodus. On both sides of the border the majority populations slaughtered their minority neighbours. Millions of terrified people fled in trainloads, in wagons or on foot. The refugee convoys suffered terrible attacks. Thousands, even tens of thousands, of young girls, women and children were abducted. Hundreds of thousands of people perished,¹ while the number of refugees reached 10 million in a few months, confronting the new governments of India and Pakistan with huge problems in terms of aid and rehabilitation.²

¹ Estimates vary from 225,000 to 2 million.
² During the emergency phase, the two governments were given assistance by a number of local aid agencies, including the Indian and Pakistan National Societies, the St John Ambulance Association,
Beginning in late 1947, refugees from Kashmir swelled the ranks even further, and in 1950, one million people abandoned their homes in Bengal.

Altogether, the partition caused population movements affecting about 17 million people.

Kashmir

Another matter to be settled as part of the independence process was the status of the approximately 600 princely states that existed alongside the provinces administered directly by New Delhi and were self-governing under British rule. On 15 August 1947, strongly encouraged by Lord Mountbatten, who wanted them to abandon any claim to independence, almost all these states opted to join either India or Pakistan, depending on their geographical location and the composition of their population.

Of the three states that had not yet taken a decision, two – Kashmir and Hyderabad – were to experience major problems.

In Kashmir, a Hindu prince or maharajah governed a population of four million, three-quarters of them Muslims. Throughout the summer of 1947 he put off any decision, hoping to be granted special status. With news of the killings in Punjab, however, the strife spread to Jammu, a region in southern Kashmir with a preponderantly Hindu population, where Muslims were massacred. In August, a rebellion among peasants and Muslim soldiers in the maharajah’s army broke out in the district of Pooneh; it was here that the “Azad Kashmir” (Free Kashmir) movement, which was to be supported by Pakistan, started. Tension continued to rise until the invasion of Kashmir on 22 October 1947 by Pathan warriors of the North-West Frontier Province of Pakistan who came to the aid of their co-religionists. There followed destruction, massacres, pillage, rape and kidnappings, on a massive scale.

With the invaders threatening the Kashmiri capital, Srinagar, the maharajah fled to Jammu and asked for Indian troops to be sent as reinforcements. Lord Mountbatten, now governor-general of independent India, agreed, provided the maharajah sign a letter of accession to India. This was done on 26 October 1947, subject to ratification by the people once peace and order had been restored in Kashmir. Indian forces went into action in Srinagar on 27 October, clearing most of the Kashmir valley.

Fighting continued throughout 1948, claiming the lives of many civilians and causing further large-scale population movements. Two million people – half the population of Kashmir – fled to the mountains, where many died of hunger and exhaustion as they tried to cross the snow-covered passes. There were two flows: Muslims travelling to the south-west and crossing the Pakistani border to end up along the All-India Women’s Conference and the Friends Service Unit. In India, a coordinating body, the United Council for Relief and Welfare, with Lady Mountbatten as its chair, was set up, comprising most of the voluntary organizations and government representatives. No large-scale aid operation was, however, undertaken at the international level.
the Lahore-Attock trunk road or further south in western Punjab; in the opposite
direction, Hindus and Sikhs fleeing to the east and south-east of the state of Jammu
and Kashmir, with only a few thousand of them seeking refuge elsewhere in India.

As early as January 1948, the dispute was brought before the United Nations Security
Council by the two parties, with India and Pakistan accusing each other of invading
and illegally occupying Kashmir. A United Nations Commission for India and Pakistan
(UNCIP) was set up to investigate the facts and mediate between the two parties. In
August 1948, UNCIP proposed a solution consisting of a ceasefire and an armistice.
The ceasefire took effect on 1 January 1949 and was ratified by a bilateral agreement
on the establishment of a demarcation line, signed by India and Pakistan in Karachi on
27 July. India now controlled two-thirds of Kashmir – most of the province of Jammu
and the Kashmir valley, the most fertile region, in the south, and the southern part of
Baltistan and Ladakh in the east. Pakistan controlled a narrow strip running from west
of the city of Jammu to Muzaffarabad – Azad Kashmir proper – and the mountainous
areas of the north and north-east, i.e. the territory of Gilgit and northern Baltistan.

The ceasefire imposed under UN supervision was to lead to the de facto partition
of Kashmir.

**Hyderabad**

Although it had a large Hindu majority, the State of Hyderabad in the heart of the
Indian peninsula was governed by a Muslim prince or nizam. Like the maharajah of
Kashmir, he refused to choose between India and Pakistan, hoping to remain inde-
pendent. Peasant revolts, fanned by communist groups, broke out. The Indian govern-
ment, fearing that strife would spread to other areas in India, invaded Hyderabad on
13 September 1948, overcame the nizam’s forces in four days and incorporated the
State into the Indian Union.

**Strife in Bengal**

During the partition in 1947, Bengal, which was divided in two like Punjab, remained
relatively calm. But in early 1950, for reasons that were partly economic, the situation
deteriorated. The Hindu minority in the province of East Pakistan and the Muslim
minority in the provinces of West Bengal and Assam, in India, were set upon by the
majority communities. Killings committed by both sides, followed by reprisals, led to
ever-increasing and widespread violence. The Hindus in East Pakistan, feeling threat-
ened, fled to West Bengal, while the Muslims in the Calcutta region fled West Bengal
for East Pakistan. The number of refugees rose to a total of one million on either side.³

³ In 1971, the province of East Pakistan broke away from Pakistan to form Bangladesh.

⁴ The following works were consulted in order to place the ICRC’s activities in their historical context:
Kashmir War

When fighting broke out in Punjab, the ICRC, which in February 1947 closed down the delegation that it had maintained in British India since the Second World War, had no local representative.

After its attention was drawn to the terrible plight of the refugees, it decided, in late 1947, to send Dr Otto Wenger on a fact-finding trip. As a former delegate from 1943 to 1947 in British India, where he had carried out many visits to camps for Italian and German prisoners of war and civilian internees, Wenger was already familiar with the subcontinent.

Wenger’s arrival and initial steps taken

On leaving Geneva in December 1947, Wenger had instructions to establish contacts with the new governments and Red Cross Societies of India and Pakistan to ascertain the scale of humanitarian needs and to make proposals for further action.

Anxious to support the Indian and Pakistan Red Cross Societies, the ICRC planned, with their agreement, to launch an appeal to all National Red Cross and Red Crescent Societies to send aid for the refugees. Nobody apparently foresaw that

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6 The Indian Red Cross Society had already been recognized by the ICRC on 28 February 1929, as a result of the new situation created for such societies in the dominions by the 1926 Statute of the British Empire. However, it was not until India gained its independence in 1947 that managerial positions, until then held only by British nationals, were handed over to Indians. The Pakistan Red Cross was founded immediately after the creation of the State of Pakistan and recognized by the ICRC on 21 July 1948. In 1974 it changed its emblem and adopted the name “Pakistan Red Crescent Society” pursuant to a decision of the Pakistani authorities, who also adopted the red crescent as the emblem of the army’s medical services. The two National Societies provided aid for the victims of the strife that followed partition.

7 Internal instructions of 19 December 1947 to O. Wenger – ICRC Archives, B G 3/37c.

8 Letters of 17 December 1947 from the ICRC to Lord Mountbatten and M.A. Jinnah, governors-general of India and Pakistan respectively – ICRC Archives, B G 85.
the Kashmir War would take up all the ICRC delegate’s time almost immediately upon his arrival. Indeed, as soon as he reached New Delhi, Wenger was asked to act as a neutral intermediary in facilitating the evacuation of several thousand Hindu and Sikh civilians from Azad Kashmir, where they were trapped.\footnote{Note No. 2 of 11 February 1948 by O. Wenger – ICRC Archives, B G 3/37c.}

In order to assess the situation on the spot and to make the necessary contacts, Wenger made several trips between New Delhi, the state of Jammu and Kashmir, Azad Kashmir and Pakistan. These trips took place in arduous conditions: the region was very mountainous and had frequent snowfalls, making some places accessible only by mule or on foot, and it was under threat of attack by the Indian air force.\footnote{Idem.}

By the end of February, Wenger’s efforts had achieved the following results:\footnote{Note No. 6 of 27 February 1948 by O. Wenger – ICRC Archives, B G 3/37c.}

- The immediate dispatch of aid by the Pakistan Red Cross and of medical personnel by the Christian Relief Association to the Alibeg camp. Wenger had visited this camp, which was situated in Azad Kashmir near the border with Pakistan and housed 1,600 non-Muslims living in appalling conditions.

- Pakistan’s agreement to arrange for the evacuation through its territory of all non-Muslims trapped in Azad Kashmir who wished to go to India and its
commitment to meanwhile supply the camps experiencing the most difficulties with provisions.

- The consent of Azad Kashmir to the departure of non-Muslims who wished to leave.
- These arrangements covered about 5,000 civilians, some free and some interned, 2,500 of whom were in Muzaffarabad, 1,600 in Alibeg, 125 in Govindpur and 700–800 in Bagh.

Wenger took advantage of his contacts with the various parties to draw their attention to the relevance of the Geneva Conventions. He discussed the matter with the leaders of Azad Kashmir, to whom he explained the basic ideas and principles of the Conventions. They stated their readiness to give effect to the Conventions provided the other side did the same. After some hesitation – India did not accept that there was a state of war with Kashmir – the Indian government too declared its determination to act in accordance with the spirit of the Conventions and to implement the relevant provisions. Regarding the treatment of prisoners of war, however, it pointed out that citizens of the state of Jammu and Kashmir and of India who had committed offences before being captured would be liable to prosecution in accordance with the laws in force. According to Wenger, this reservation was aimed at persons who had joined the forces of Azad Kashmir and were considered to be rebels by India in view of the fact that Jammu and Kashmir had become part of the Indian Union.

These declarations, confirmed in writing, resulted in the establishment of information bureaux on prisoners of war and civilian internees, the submission of lists of prisoners of war and permission for the ICRC to visit them. An arrangement was worked out for the exchange of correspondence between prisoners and their families and the dispatch of relief parcels, with the help of the Indian and Pakistan Red Cross Societies, with which Wenger maintained regular contacts.

While he was on the spot, Wenger carried out the first series of visits to prisoners. In Azad Kashmir, he went to Muzaffarabad prison, where he saw 34 prisoners of war.

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12 At the time, these were the Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armies in the Field and the Geneva Convention relative to the Treatment of Prisoners of War, both of 27 July 1929. As the successor States to the Indian Empire, India and Pakistan remained bound by the two Conventions, which had been ratified by the United Kingdom on 23 June 1931. In addition, Pakistan adhered to both treaties in its own right on 2 February 1948.


from the forces of Jammu and Kashmir, three Indian prisoners of war and about 30 political detainees;\(^{16}\) in Jammu and Kashmir, he visited Jammu prison, where about 30 prisoners of war of the Azad Kashmir forces were being held;\(^{17}\) lastly, with the support of the Pakistani government, he flew to Gilgit in northern Kashmir, where about 50 Indian soldiers were incarcerated.\(^{18}\)

On learning that many wounded combatants of the Azad Kashmir forces were not being cared for adequately because of a shortage of medical supplies and trained personnel, Wenger raised the matter with the Azad Kashmir authorities, and also with the Pakistan Red Cross and the country’s authorities. As a result of his approaches, the Pakistani government allowed the Western Punjab branch of the Pakistan Red Cross to send two medical units to Azad Kashmir;\(^{19}\) one was set up at Mirpur, the other at Paldri.

At the request of the Pakistan Red Cross, Wenger undertook to notify the Indian government of the presence of the two units.\(^{20}\) Subsequently, three further hospitals were set up in Azad Kashmir by the Pakistan Red Cross, which – in Wenger’s absence\(^{21}\) – notified the Indian government of their establishment through the Indian Red Cross Society.

As had happened in Punjab, thousands of women and children were abducted by both sides in Kashmir, especially at the beginning of the war. Although an agreement was signed by India and Pakistan aimed at locating the victims of kidnappings in their respective territories, such efforts were making little progress in the case of Kashmir because of its disputed status. Here, too, Wenger’s mediation was sought. It resulted in the establishment of a procedure under which the parties undertook to intensify searches, to place women and children – once found – in camps in India and Pakistan pending their repatriation, to draw up and exchange lists in order to locate and contact their families and to allow adult women to decide freely whether or not to rejoin their relatives. It was also agreed that the camps could be visited by representatives of the opposing government and that the ICRC could provide assistance if necessary.\(^{22}\)

With most of his time taken up by his work as a neutral intermediary in the Kashmir War, Wenger was not able to devote as much attention to the general problem of refugees as he would have wished. Nevertheless, he visited several camps in Pakistan

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16 Notes No. 8 of 11 March 1948 and No. 60 of 8 June 1948 by O. Wenger – ICRC Archives, B G 3/37c.
18 Note No. 45 of 20 May 1948 by O. Wenger and telegram of 19 June 1948 from the latter to the ICRC – ICRC Archives, B G 3/37c.
20 Note No. 23 of 9 April 1948 from O. Wenger to the ICRC and its eight annexes – ICRC Archives, B G 3/37c.
21 There was no ICRC delegate in the country from the end of June to November 1948, i.e. from the time of O. Wenger’s departure for Geneva until his return in order to introduce his replacements.
22 Notes No. 9 of 11 March, No. 20 of 19 March and No. 57 of 6 June 1948 by O. Wenger – ICRC Archives, G 3/37c.
and India, in particular in the state of Jammu and Kashmir. He brought the most pressing problems to the notice of the authorities and the Red Cross Societies and advised them on how to organize the camps. Lastly, he gathered all the information needed to launch an appeal and sent it to the ICRC. His conclusions were as follows:

1. Although its most urgent aspects are being handled by the two governments, the refugee problem in India and Pakistan remains so enormous that it is beyond the Committee’s ability to resolve and exceeds the scope of a general Red Cross relief operation (…).

2. In Kashmir, the distress is even greater, although it affects fewer people. There, the crisis is a consequence of the hostilities, whereas in India and Pakistan it has resulted from the chaotic and massive exchange of populations. Should the Committee wish to undertake a relief operation, possibly in cooperation with the League, it should concentrate its efforts on Kashmir; in launching an appeal we could at the same time specify which items India and Pakistan need most urgently.\(^\text{23}\)

Wenger, who had originally set out on a two-month fact-finding assignment, stayed for six months, not departing until late June 1948.

On his return to Geneva, Wenger recommended that the ICRC pursue its operation in Kashmir, for which he had prepared the ground and which was directly within its purview as a neutral intermediary. He went back to the subcontinent on 17 November 1948 to await the arrival of Dr Roland Marti, one month later, and of Nicolas Burckhardt, in early January 1949, both of whom he introduced to the authorities before concluding his assignment.

Marti, as head of mission based in New Delhi and assigned to India and to Jammu and Kashmir, and Burckhardt, as a delegate based in Lahore and assigned to Pakistan and the territory of Azad Kashmir, were to remain in the field until June and October 1949 respectively.

**Protection for hospitals**

In October 1948, at a time when it had no delegate on the spot, the ICRC received vigorous protests from the Pakistan Red Cross concerning the Indian air force’s bombing of two of its hospitals, one in Kotli and the other in Bagh, in Azad Kashmir, both of which were duly marked with the red cross emblem. Patients had been killed, and there had been large-scale damage. Pursuant to its policy on the forwarding of protests concerning alleged violations of the Geneva Conventions,\(^\text{24}\) the ICRC conveyed the Pakistan Red Cross’s protests to the Indian Red Cross Society, requesting it to ask the Indian government to investigate the matter and to take all

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\(^{24}\) This policy had just been confirmed by the 17th International Conference of the Red Cross (Stockholm, 20–30 August 1948). See pp. 39 and 80 above.
possible measures to prevent such incidents or their recurrence. The Indian government stated that under no circumstances could its pilots have deliberately attacked the two medical facilities and concluded that the marking of the hospitals, or even their location, must have been inadequate.

This issue was one of the first to be taken up by Wenger with the relevant authorities and National Societies when he returned to India and Pakistan. His involvement, and subsequently that of his colleagues, made it possible to address the difficulties, in particular by improving the marking of hospitals.

**Prisoners of war**

From the time of their arrival, the ICRC delegates made regular visits to the main internment sites.

**India**

On the Indian side, these were, firstly, the camp at Yol, in India, which when visited on 17 and 18 January 1949 housed 75 prisoners of war from the Pakistani army and the Azad Kashmir forces along with some civilians, and secondly, the so-called “POW Cage” and the Central Jail, both in Jammu, with about 30 and 20 prisoners respectively. Ten visits in all were conducted to those three places between January and late August 1949; in addition, visits were made to the Srinagar military hospital and New Delhi’s “26 General Hospital”, where wounded and sick prisoners were being cared for.

**Pakistan and Azad Kashmir**

On the Pakistani and Azad Kashmir side, about 630 prisoners were held in the Attock Fort Neutral Internment Camp in Pakistan. They were mainly combatants from Jammu and Kashmir forces, with a few men from the Indian army and some civilians. These prisoners had previously been interned in Muzaffarabad, Palandri, Alibeg, Skardu and Gilgit; they had all been transferred to Attock between October and November 1948, at the request of the Azad Kashmir authorities, so that they could be treated in accordance with the relevant Geneva Convention. Wenger had already seen some of

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25 Telegrams of 22 October, 28 October and 2 November 1948 from the ICRC to the Indian Red Cross – ICRC Archives, B G 85.
26 Letter of 9 November 1948 from the Indian Red Cross to the ICRC and its annex (ICRC Archives, B G 85).
the prisoners during his first assignment in the spring of 1948.\textsuperscript{29} Between December 1948 and August 1949, ICRC delegates made six visits to the camp at Attock. In April 1949, they had also travelled to Chilas in the district of Gilgit and in May to Skardu in Baltistan, visiting 54 and four Indian prisoners of war respectively.

To cover the distance between the towns of Gilgit and Chilas – where he was determined to go because he felt that the military authorities in Rawalpindi had little idea of the prisoners’ circumstances – Burckhardt did not hesitate to undertake a journey of about ten days on horseback. The description of his journey to Chilas illustrates some of the difficulties that delegates had to face in reaching their destination:

Weather conditions even affect journeys on horseback here (...). An hour after the rain started, rocks and avalanches of sand began to fall, carrying off the most exposed parts of the road. (...) Even small gusts of wind are enough in some particularly dangerous spots to set off rockfalls. From time to time you can seek protection behind large rocks, between which you have to gallop at top speed. In the saddle this can be rather fun, as you are quite mobile, but the mules carrying luggage are more exposed to the dangers with their huge loads.\textsuperscript{30}

\textsuperscript{29} Report on the visit to Attock Fort Neutral Internment Camp (Pakistan), made on 3 December 1948 – ICRC Archives, C SC RR 1407.

\textsuperscript{30} Note No. 1032 of 22 April 1949 by N. Burckhardt – ICRC Archives, B G 17/167/66.
These visits to prisoners of war were the subject of reports covering different aspects of detention, which were sent on a regular basis to the governments of India and Pakistan. On each visit the delegates brought the prisoners relief supplies provided by the Indian and Pakistan Red Cross Societies and enquired after their needs. They noted a progressive improvement in their living conditions, which they soon considered satisfactory.\footnote{Summary of R. Marti’s account of his assignment to India, annexed to the minutes of the meeting of the Delegations Commission held on 27 July 1949 – ICRC Archives, A PV.}

\textit{Repatriation}

From the outset, the delegates asked for the “seriously ill and seriously wounded” to be repatriated, in accordance with Article 68 of the 1929 Geneva Convention relative to the Treatment of Prisoners of War and obtained satisfaction on this point: between February and June 1949, about 40 wounded and sick prisoners were repatriated on either side in four separate operations. The delegates were present at the first of these; the remainder took place without them, but they were kept regularly informed.\footnote{Note No. 1018 of 8 March 1949 by N. Burckhardt, and notes of 18 March, 11 April and 26 June 1949 by R. Marti – ICRC Archives, B G 3/37e and B G 17/66/66.}

The delegates also recommended the repatriation of civilians interned in prisoner-of-war camps. Some operations took place in individual cases, at times in the presence of the delegates and sometimes without them.

The question of the repatriation of all prisoners of war was being dealt with directly by the governments of India and Pakistan as part of the negotiations initiated under UNCIP auspices. The 1929 Geneva Convention protecting prisoners of war in fact states, in Article 75: “When belligerents conclude an armistice convention, they shall normally cause to be included therein provisions concerning the repatriation of prisoners of war.” However, guided by the draft of the new Geneva Convention under which “[p]risoners of war shall be released and repatriated without delay after the cessation of active hostilities”,\footnote{Article 118 of the Geneva Convention relative to the Treatment of Prisoners of War, of 12 August 1949, see p. 244 above.} and taking advantage of the ceasefire that had entered into force on 1 January 1949, the delegates offered their good offices in the hope of speeding up the conclusion of an agreement on the subject.

India wanted the immediate repatriation of all prisoners of war on either side. Pakistan stated its willingness to have an immediate exchange, but “one-for-one”, which would leave about 500 prisoners in its hands; it would also agree to return all prisoners before an armistice was signed, on condition, however, that the Indian government agreed to release all Pathan combatants, all members of the Azad Kashmir forces and all political detainees held in civilian prisons in the state of Jammu and Kashmir and in India. This was because Pakistan and Azad Kashmir believed that the captured combatants were not all in prisoner-of-war camps. For its
part, India declared that it had carried out a thorough search for all military prisoners and refused a “one-for-one” exchange.\footnote{Note No. 1039 of 4 May 1949 by N. Burckhardt – ICRC Archives, B G 17/66/66.}

To break the deadlock, the ICRC delegates urged India and the state of Jammu and Kashmir to find the greatest possible number of Pathan and Kashmiri prisoners of war from Azad Kashmir; they even took an active part in the search by visiting prisons. They also tried to dissuade Pakistan from linking the repatriation of prisoners of war to that of political detainees.\footnote{Note of 17 May 1949 from R. Marti – ICRC archives, B G 17/66/66.} About 50 new prisoners were brought forward by the Indian army, but this was not enough to get things moving, and no general repatriation operation could be organized before the delegates left.

On departing from the subcontinent at the end of summer 1949, the delegates took stock of the situation. Both in India and Pakistan, prisoners of war – except for those in Gilgit – were housed in a single camp, at Yol and Attock respectively, making it easier to monitor their conditions of detention. Considering the local context, these were relatively good. All prisoners were visited at regular intervals by officers of their own nationality, who were authorized to bring them supplies.\footnote{Article 86 of the 1929 Geneva Convention relative to the Treatment of Prisoners of War provided for this possibility in its last paragraph, under which “[b]elligerents may come to an agreement to allow persons of the same nationality as the prisoners to be permitted to take part in inspection trips”. It was nevertheless exceptional for this kind of visit to take place.} Repatriations for health reasons continued, on the spontaneous proposal of the detaining powers, which showed generosity regarding the criteria applied.\footnote{Note No. 1092 of 4 September 1949 by N. Burckhardt – ICRC Archives, B G 3/37e.} The only question that remained unresolved was that of the repatriation of all prisoners.

General repatriation was finally to take place on 25 May 1950 at Atari, between Lahore and Amritsar, where 691 Indian prisoners were exchanged for 153 Pakistanis following an agreement reached between the two prime ministers, Jawaharlal Nehru of India and Liaquat Ali Khan of Pakistan,\footnote{Report No. 1 of 25 May 1950 by R. Marti – ICRC Archives, B G 3/37f.} during talks preceding the Minority Agreement.\footnote{See p. 384 below.}

**Political detainees**

At the request of the authorities of the state of Jammu and Kashmir and of Azad Kashmir, which provided them with lists of their respective partisans in enemy hands,\footnote{Note No. 9 of 2 January 1949 by R. Marti – ICRC Archives, B G 17/66/66.} the ICRC delegates endeavoured to facilitate the exchange of a number of political prisoners. A few dozen were repatriated, in the presence of the delegates, in two operations that took place in Sialkot, a border town near Jammu, on 15 January and 25 February 1949.
Subsequently, Azad Kashmir submitted further lists of several dozen persons presumed held for political reasons in the state of Jammu and Kashmir, requesting their return. Jammu and Kashmir rebuffed this approach, declaring that there were no political detainees remaining in its prisons and that the only persons still awaiting trial were criminals guilty of attacks whom it did not consider to be political prisoners. Jammu and Kashmir also accused Azad Kashmir of holding a large number of political detainees, a charge which Azad Kashmir denied.

Taking note of the situation, the delegates felt that they could do no more on this issue, which was not covered by any convention and which was being dealt with in the negotiations taking place under UNCIP auspices.41

Abducted women and children

On 21 January 1949, the delegates supervised, in Sialkot, the return to India of 140 women and children from the Dadyal camp in Pakistan, while 256 women and children from the Ustad Ka Mohalla camp in Jammu were transferred in the other direction to Pakistan, together with 167 Muslim refugees, also from Jammu.42

However, Pakistan accused the Jammu and Kashmir authorities of keeping women and children in Jammu, while Jammu and Kashmir accused Azad Kashmir of not actively carrying out searches in its territory. Rumours also circulated about conditions in the camps at Amritsar, on one side, and Lahore, on the other, to which the women and children traced by India and Pakistan respectively were sent while their relatives were being located.43

At the request of the Indian authorities, which wanted the ICRC’s cooperation to speed up the settlement of these problems, and with the agreement of the Pakistani authorities, the delegates visited the following camps in April and May: Amritsar (60 women and children at the time of the first visit, 151 during the second), Lahore (60 women and children, and 124 non-Muslim refugees evacuated from the Alibeg and Palandri camps who had expressed the wish to be transferred to territory under Indian control) and Jammu (180 women and children).

The delegates obtained and forwarded to Pakistan a full list of the women and children living in the Jammu camp. They were given assurances that the persons concerned would be handed over to Pakistan as soon as their relatives were found.

The delegates also appealed for an active search to be conducted to find the women and children abducted in Azad Kashmir and for those who had already been traced and placed in camps to be repatriated as soon as possible.44 No further operation

42 Note No 28 of 3 February 1949 from N. Burckhardt – ICRC Archives, B G 3/37e.
was undertaken before their departure, however. At the end of 1949, the ICRC was informed that the 124 non-Muslim refugees waiting in Lahore had finally been able to go to India.\(^{45}\)

Refugees and vulnerable groups

As mentioned earlier, the hostilities in Kashmir set off new waves of hundreds of thousands of refugees, whose numbers had risen to two million by late 1948.

On the basis of information provided by Otto Wenger at the end of his first assignment, the ICRC and the League of Red Cross Societies had issued a joint appeal to all National Societies on 30 October 1948 to send aid for refugees in India and Pakistan, especially those in Kashmir.\(^{46}\) A few Societies had already dispatched relief supplies directly to the Indian and Pakistan Red Cross Societies, but the deliveries had remained paltry in relation to the magnitude of the needs.

Without the means to provide material aid for all the refugees, the delegates focused their attention on the most vulnerable groups, considering that the ICRC’s role as a neutral intermediary could be of use to them.

In mid-February 1949, Nicolas Burckhardt visited the Alibeg camp in Azad Kashmir, which had just been taken over by the Pakistani authorities and which at the time housed 1,200 non-Muslim refugees.\(^{47}\)

One month later, he journeyed to the thesil\(^{48}\) of Kotli in the district of Mirpur: in autumn 1948, a total of 50,000 people had fled the advance of Indian troops and had become trapped in the north of the district, separated from Pakistan by a range of mountains more than 2,000 metres high, the only practicable road having been cut off by the Indian army. Goods could reach the area only if carried by porters or pack mules over a snow-covered mountain pass. The aid therefore had to be airdropped by the Pakistani army. The delegate described the situation as follows:

These tracks (...) link small terraces on the mountainside (...). The scene as a whole appears like a garden in a fairytale setting. As soon as you approach the dwellings, however, you see a crowd of undernourished refugees dressed in rags, often very apathetic. When you come to one of the rare larger settlements, which had several thousand inhabitants before the conflict, (...) you see that everything is in ruins. Looting and aerial bombardment have done a thorough job.

\(^{45}\) Letter of 23 December 1949 from V. Sahay, Indian secretary for Kashmiri affairs – ICRC Archives, B G 81/Ev.

\(^{46}\) Joint circular letter from the ICRC and the League of Red Cross Societies to National Red Cross Societies – ICRC Archives, B SG 7/66.

\(^{47}\) Note No. 1014 of 23 February 1949 by N. Burckhardt – ICRC Archives, B G 3/37e.

\(^{48}\) Districts were divided into several thesils, or subdistricts.
And further on:

We were able to make contact with the military and civil authorities in the various villages in the thesil. We saw a great many refugees on the road, going down to the valley in search of food (which only the strongest men could carry), groups of refugees in the villages hoping to obtain food rations, and sick people and their families in small clinics (…). We could see the pitiful state of malnourishment of these people. They cannot be compared to the refugees whom we saw in the camps in Alibeg (...). Oedemas resulting from hunger are common among the children (...). The only road suitable for vehicles, which crosses the Indian lines, (...) should be opened to let a few relief convoys through.\(^{49}\)

The delegates interceded with the Indian and Pakistani authorities in order to reach an agreement to open the road to such convoys. The problem was finally solved in the succeeding weeks when Pakistan built a road to Kotli so that convoys could avoid using the one controlled by India.

In May 1949, Roland Marti flew by military aircraft from Rawalpindi to Skardu, a small town in Baltistan on the Indus, between the impressive mountain ranges of Karakorum and the Deosai Mountains, in the Himalayas. This area had been the scene of bloody clashes since the beginning of 1948, when the Indian garrison in Skardu had been defeated by Azad Kashmir and Pakistani troops. Prisoners of war were sent to Gilgit and Chilas, but some 180 non-Muslim civilians were interned in Skardu, where, cut off from the rest of the world for the winter of 1948-1949, they had had to be supplied, like the garrison and the civilian population, by an airlift carried out by the Pakistani air force.

The internees were divided into two groups: one of 90 Sikh women and children whose husbands and fathers had been killed in the fighting, and another of 90 Hindu men, women and children. It was especially the first group for which Marti, in his own words, felt profound compassion:

True, their material existence has been guaranteed, but we are faced with widows and orphans who are completely lost in this part of the world. Like a herd of cattle, these women and children dressed in brown huddled together around me. The women were crying softly, and you could somehow perceive an infinite pain in it all (...). The army had planned to repatriate them by road from Skardu to Kargil (...), which lies above the Indus and is in Indian hands. However, we became convinced that the road, or rather the track alongside the rock face, was much too dangerous for women and children, and the entire group should be allowed to fly out to Rawalpindi or Peshawar.\(^{50}\)

The delegates endeavoured to obtain agreement for both groups of people, whose names had been given to them, to be repatriated to India or at least transferred to

\(^{49}\) Note No. 1023 of 18 March 1949 by N. Burckhardt and its annex – ICRC Archives, B G 3/37e.

\(^{50}\) Note of 28 May 1949 by R. Marti – ICRC Archives, B G 3/37d.
Pakistan before the coming winter. This evacuation, of which the ICRC was kept informed, took place after the delegates’ departure, at the end of 1949.51

However, the ICRC considered it its duty, as a neutral organization with delegates on the spot, to carry out a full and detailed survey of the needs of Kashmiri refugees in order to bring their plight to the world’s attention and provide potential donors with necessary information. Roland Marti and Nicolas Burckhardt devoted the month of June 1949 to this survey.52 Dividing the work, they travelled through practically all the areas housing refugees and displaced persons, made contact with the relevant authorities at all levels and consistently visited all the camps, districts and thesils.53

The survey gave rise to a 90-page report,54 illustrated by maps and photographs and covering every aspect of the refugee situation. It showed that, following the ceasefire that had come into force on 1 January 1949, several hundred thousand refugees had returned home and resumed their normal activities, but about one million still remained homeless, living in camps or with friends, or having set themselves up in small communities to which the authorities had great difficulty delivering basic supplies. The displaced people who went home were often as destitute as the refugees, since all they found were ruined buildings and devastated fields.

After describing the geographical layout of Kashmir, its road network and the problems in terms of food, clothing, hygiene and medical care resulting from the hostilities, the survey set out the various categories of refugees and their requirements region by region, showing that in general those in the worst situation and with the greatest needs were people living outside the camps controlled by the Indian and Pakistani authorities. It drew up an order of priority for the groups requiring relief and listed the supplies needed in every sphere.

The ICRC sent this report to the governments and Red Cross Societies of India and Pakistan. It also shared it with the UNCIP secretariat in Geneva and the Secretary-General of the United Nations in Lake Success. Lastly, an extract was published in the February 1950 English-language Supplement to the Revue internationale de la Croix-Rouge.55 The ICRC hoped that this would encourage the international community, in particular the United Nations, to mobilize in favour of these refugees, as it had done

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52 Note No. 81 of 17 May 1949 to the ICRC delegation in New Delhi – ICRC Archives, B G 17/66/66.
55 On this subject, see the exchange of correspondence in November 1949 between the ICRC and E. Colban, principal secretary of UNCIP in Geneva, and the letter of 14 November 1949 from the president of the ICRC to the UN secretary-general in Lake Success – ICRC Archives, B G 85. It should be noted that both O. Wenger and R. Marti had already been able to provide UNCIP in New Delhi with information on the humanitarian situation of the refugees. See also: “The ICRC in India and Pakistan: The Kashmiri refugees”, English Supplement, RICR, Vol. III, No. 2, February 1950, pp. 38–42.
for Palestinian refugees at the end of 1948. But its hopes were not to be fulfilled: no international relief operation was launched under UN auspices.

For its part, the ICRC resolved to send medical supplies, through the respective Red Cross Societies, to the Indian and Pakistani authorities responsible for health services in the camps. Surgical, X-ray and laboratory equipment worth 90,000 Swiss francs was dispatched in 1950.

In October 1949, the ICRC had decided, on the advice of its delegates, to close down its offices in India and Pakistan. The delegates believed that the remaining problems of a humanitarian nature no longer required a permanent ICRC presence – unless a large-scale relief operation could be undertaken for the refugees, which the ICRC was unable to implement using its resources alone.

Whereas the conflict in Kashmir was at its height when Otto Wenger arrived, the situation was quite different after the ceasefire and the start of political negotiations under UN auspices. The hostilities had ended, and India and Pakistan had direct relations enabling them to resolve issues of mutual concern together. Action by a neutral intermediary no longer appeared necessary, and the delegates had only continued to mediate because they hoped to speed up the settlement of various problems affecting the conflict victims. They now saw that those problems – the repatriation of all prisoners of war, the exchange of political detainees, the return home of abducted women and children, the transfer of groups of civilians – tended to be viewed as an overall issue that was becoming increasingly difficult to divide into separate components and whose solution, it seemed, was tied to the progress of political negotiations.

Events in Hyderabad

On 17 September 1948, following the entry of Indian forces into the State of Hyderabad, the ICRC offered its services to the governments of India and Hyderabad as a neutral intermediary – a role provided for under the Statutes of the International Red Cross. Specifically, it would arrange for the exchange of lists of captured army personnel, visits to places of internment and the delivery of family news. It was also

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56 Note No. 81 of 17 May 1949 from the ICRC to its delegation in New Delhi – ICRC Archives, B G 17/66/66. On the question of assistance to Palestinian refugees and the agreement between the UN and the ICRC on this issue, see pp. 333 ff. below.
considering sending a delegate,\(^60\) but India declined its offer two days later, arguing that the hostilities had come to an end.\(^61\)

In late October the Pakistan Red Cross asked the ICRC to come to the aid of the \textit{Razakars},\(^62\) a volunteer corps that had fought alongside the regular armed forces of the State of Hyderabad. While the latter had been disarmed and freed, thousands of \textit{Razakars}, who were denied prisoner-of-war status by India, were being kept in detention. The matter was also brought before the ICRC by Hyderabad’s former minister of foreign affairs and delegate to the United Nations. On being informed of this, Roland Marti immediately began talks with the Indian authorities in New Delhi to ensure that the former combatants were treated as prisoners of war and to obtain the right to visit them.

Despite numerous representations\(^63\) extending over a period of several months – some of them made by the ICRC president himself to Pandit Nehru, particularly during the latter’s visit to Switzerland in May 1949, and subsequently confirmed in writing\(^64\) – the ICRC’s overtures were rebuffed.\(^65\) This was because India considered that the conflict was at an end and that those interned were ordinary detainees who had been handed over to the civil authorities and were awaiting trial for criminal offences committed before the entry of Indian troops into Hyderabad. They could therefore not be regarded as prisoners of war.

The opinion of the ICRC was that the \textit{Razakars} could be considered as regular combatants – either as members of a militia or as part of the population of a country that had spontaneously taken up arms when the enemy had approached. As the Legal Commission of the ICRC pointed out, they had been captured as combatants by Indian troops, who had subsequently handed them over to the civil authorities. They should therefore be accorded the treatment of prisoners of war and should keep that status until a verdict was handed down, even if legal proceedings were instituted against them for offences committed before the intervention of Indian troops.\(^66\)

The issue of the \textit{Razakars} arose just as the draft 1949 Geneva Conventions were being submitted by the ICRC to the Diplomatic Conference convened to adopt them.\(^67\) The draft of the Convention relative to the Treatment of Prisoners of War clearly stipulated that the four conditions to be fulfilled by militias and volunteers

\(^{60}\) Minutes of the meeting of the Bureau held on 15 September 1948 – ICRC Archives, A PV.
\(^{61}\) Radiogram of 19 September 1948 from the Indian Ministry of Foreign Affairs to the president of the ICRC – ICRC Archives, B G 85.
\(^{62}\) Letter of 29 October 1948 from the Pakistan Red Cross to the ICRC – ICRC Archives, B G 17/166.
\(^{63}\) Note of 22 November 1949 from E. de Bondeli on the problem of the \textit{Razakars} in Hyderabad – ICRC Archives, B G 17/166.
\(^{64}\) Telegram of 29 July 1949 from Paul Ruegger, ICRC president, to Pandit Jawaharlal Nehru, prime minister of India – ICRC Archives, B G 85.
\(^{65}\) Letter of 30 July 1949 from the prime minister of India to the ICRC president – ICRC Archives, B G 17/166.
\(^{66}\) Note of 3 February 1950 from the Legal Commission to the ICRC – ICRC Archives, B G 17/166.
\(^{67}\) See pp. 226 ff. above.
24. Bengal
corps if they were to be accorded prisoner-of-war status applied to those not forming part of regular armed forces. It also stated that prisoners of war prosecuted for acts committed before their capture would retain the benefits of the Convention even if they were convicted.

During his conversation with the president of the ICRC, Pandit Nehru had, however, stated that India would be magnanimous and that, after investigation, Razakars prosecuted for lesser offences would be released. Following a final inquiry into the fate of the Razakars, the ICRC was informed that, of the approximately 17,000 persons arrested, 128 were still being held, of whom 71 were being tried and 57 were under investigation.

Strife in Bengal

Urgent appeal and prelude to action

In late February 1950 – four months after it had closed down its delegations on the Indian subcontinent – the ICRC received an urgent appeal from the Indian Red Cross, asking it to take part in a joint effort by the National Society and the Pakistan Red Cross to investigate the situation of minorities and to examine possible measures to assist the population of East and West Bengal, where atrocities had allegedly been committed.

At the same time, the Indian ambassador to Switzerland approached the ICRC president, Paul Ruegger, to deliver orally a confidential message from Pandit Nehru. The Indian prime minister, determined to avert a repetition of the events that had taken place in Punjab in 1947 and to contain any disturbances from the outset, believed that an impartial commission of inquiry would help reduce the tensions. He had already conveyed this message to his Pakistani counterpart, Liaquat Ali Khan.

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68 These four conditions, set out in future Art. 4(2) of the Third Geneva Convention relative to the Treatment of Prisoners of War, of 12 August 1949, were:
   “a) that of being commanded by a person responsible for his subordinates;
   b) that of having a fixed distinctive sign recognizable at a distance;
   c) that of carrying arms openly;
   d) that of conducting their operations in accordance with the laws and customs of war.”

69 This draft article, which became Art. 85 of the Third Geneva Convention of 1949, reads as follows:
   “Prisoners of war prosecuted under the laws of the Detaining Power for acts committed prior to capture shall retain, even if convicted, the benefits of the present Convention.”


72 Telegram of 24 February 1950 from the Indian Red Cross to the ICRC and letter of 25 February 1950 from the ICRC’s resident delegate (Swiss national representing the ICRC on a part-time, voluntary basis) in Bombay, Jacob Anderegg – ICRC Archives, B G 3/27. Minutes of the meeting of the Delegations Commission held on 1 March 1950 – ICRC Archives, A PV.
whose backing he hoped to obtain. The Indian government also asked the ICRC to mount a relief operation for which, it said, the necessary funds could be found. President Ruegger welcomed this initiative, while reminding the Indian government of the ICRC’s policy regarding commissions of inquiry, set out in its memorandum of September 1939 and applicable by analogy.

Upon examining the question, the ICRC concluded that an inquiry could not be undertaken unless it had the full agreement and support of both parties. This position was conveyed in writing to the Indian ambassador to Switzerland and the Indian Red Cross in New Delhi. The latter was also informed that the ICRC was examining the possibility of carrying out a relief operation, provided sufficient resources were made available.

In early March, the Indian ambassador approached the ICRC officially, requesting that it send a representative to New Delhi as soon as possible in order to help the governments of India and Pakistan organize assistance for the victims of the disturbances in Bengal.

Having been informed of this by the ICRC, the Pakistani government agreed to the dispatch of an ICRC representative to its eastern region to assist the victims.

The ICRC thereupon announced to the governments of India and Pakistan that it was sending two representatives, David de Traz and Dr Roland Marti, to New Delhi and Karachi to examine the possibility of mounting a relief operation.

In his capacity as personal representative of the ICRC president, de Traz made two brief trips to Pakistan and India in late March to hold discussions with the authorities and the National Societies of both countries. There he learnt that, for the past two months, Bengal had been wracked by violence committed by the majority groups on both sides, setting off panic among the minorities – Hindus in East Pakistan and Muslims in the Indian state of West Bengal – and provoking massive population movements. The most acute problem was the stream of refugees pouring into both India and East Pakistan in a state of complete destitution. With the consent of the two countries, Marti was placed in charge of assessing the situation on both sides and making specific proposals for ICRC action.

In his subsequent report to the ICRC, de Traz underscored that the authorities of both countries believed that the presence of a neutral intermediary in the affected

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73 See footnote 18, p. 39 above.
74 Note of 27 February 1950 by ICRC President Paul Ruegger on possible action in India (Bengal) – ICRC Archives, B G 17/66.
75 Minutes of the working session of the Committee held on 2 March 1950 – ICRC Archives, A PV. Brief chronological summary of the situation in Begal by Jean Babel, 11 May 1950 – ICRC Archives, B G 17/66.
77 Telegram of 8 March from the government of Pakistan to the ICRC. Minutes of the meeting of the Presidential Council held on 9 March 1950 – ICRC Archives, BG 3/27 and A/PV.
78 Brief chronological summary of the situation in Begal by Jean Babel, op. cit. Minutes of the plenary session of the Committee held on 16 March 1950 – ICRC Archives, A PV.
areas could reduce panic among the minority groups and thus stem the exodus. The ICRC, for its part, viewed the action it was soon to undertake as a welcome opportunity to “carry out a relief operation in full independence and, especially, to provide effective protection and moral support”.

Assessment and offer of services

Marti joined de Traz in New Delhi and then, on 24 March, arrived in Calcutta, where he met the authorities of West Bengal and spent ten days visiting the Indian states of West Bengal, Assam and Tripura. Tensions had risen to a peak and, in some places, as many as 10,000 refugees could be seen crossing the border each day in both directions. Once more, as Marti observed, the delegates witnessed “a pitiful exodus of homeless and starving men and women, weeping for the relatives and lands which they had no hope of seeing again. At each frontier it was the same despairing spectacle: gaunt and weary refugees, dropping from exhaustion once across the lines.”

Marti pressed on to Dhaka, where he visited, during the first half of April, the centre and south-east of East Pakistan. He was appalled by the lack of hygiene in the Muslim refugee camps, which were set up inside decrepit public buildings in Dhaka. “There are about 1,000 people in each centre. (...) They are living one on top of the other, in complete chaos, occupying every available space, even the rooftops. (...) The conditions of hygiene are deplorable; I have never seen anything so awful. (...) Some camps are surrounded by pools of fetid, stagnant water from which the refugees drink. A putrefying stench permeates everything. These are not camps, they are open sewers. As for the Hindu refugee camps set up in Narayanganj, the port area some 25 kilometres south of Dhaka, they have simply been abandoned by the authorities. Although they are receiving some assistance from Hindu associations, the conditions there are even worse than in Dhaka.” Marti described them as “hell holes”, adding: “I am not using such language merely to increase the impact of my report. These camps are simply revolting.” He went on to say: “I also visited the train stations, where refugees arrive in droves and sometimes have to sleep. I saw entire families prey to illness, (...) I saw groups of children looking wan and wretched, and I thought, once again, that our efforts must go first and foremost towards helping them.”

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79 Report by D. de Traz appended to the minutes of the working session of the Committee held on 30 March 1950 – ICRC Archives, A PV.
80 This was an allusion to the action taken by the ICRC at the time on behalf of Palestinian refugees under the aegis of the UN. See pp. 459 ff. below.
81 Minutes of the working session of the Committee held on 30 March 1950 – ICRC Archives, A PV.
83 Note of 10 April 1950 by R. Marti on his trip to East Pakistan – ICRC Archives, B G 3/37f.
Before returning to Geneva, Marti stopped off in New Delhi and Karachi for talks with the authorities. In the meantime, the prime ministers of India and Pakistan signed the Minority Agreement, under which they pledged to protect minority groups – a step that went a long way towards easing tensions. As a result, the ICRC’s role of neutral intermediary, as first envisaged, appeared to take a back seat. In his report to the ICRC, Marti therefore placed the emphasis on resettling the refugees. Given the deplorable sanitary conditions in the camps, he proposed that the ICRC send three medical teams to either side of the border, each made up of one doctor and two nurses who would provide medical care and also deal with the social problems.

Certain members of the Committee hesitated to approve Marti’s plan, budgeted at 650,000 Swiss francs, as this amounted to the ICRC’s entire financial reserves. President Ruegger, on the other hand, believed that the ICRC should meet the expectations placed upon it and that doing so would provide it with an opportunity to showcase its activities in a part of the world where it was still relatively unknown. While acknowledging that its resources were limited, he thought that the ICRC could nevertheless play a useful advisory role in the relief effort and an even larger role in promoting the principles and ideals of the Red Cross in a region beset by strife. In the president’s words: “If the ICRC wishes to take meaningful action and show itself worthy of the trust placed in it by the people of Bengal, then it must be prepared to make sacrifices.”

The ICRC subsequently approved the principle of taking action in Bengal, first allocating 300,000 Swiss francs to the operation and, by the end of August 1950, another 340,000.

Owing to its limited resources, the ICRC sent two medical teams rather than three each to West Bengal and East Pakistan. As head of the ICRC’s team in Calcutta, Marti was expected not only to maintain relations with the authorities of West Bengal, but also to keep in close touch with those of East Pakistan in Dhaka. His team included a medical doctor and two delegates, one of whom was mainly in charge of liaison with the governments in New Delhi and Karachi.

In the message it addressed to the prime ministers of India and Pakistan informing them of its intentions, the ICRC stressed that it was offering its services to assist minorities and refugees affected by the situation in Bengal within the framework of its traditional activities and in conformity with its Statutes. These provided for it to take action wherever humanitarian assistance was required and wherever the presence of a neutral and apolitical organization was needed. Following the signature of the Minority Agreement, it decided that the best way to fulfil its mandate was to organize

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84 Agreement between the Governments of India and Pakistan Regarding Security and Rights of Minorities (Nehri-Liaquat Agreement), New Delhi, 8 April 1950
85 Report by Dr Marti on a possible operation in Bengal, appended to the minutes of the plenary session of the Committee held on 27 April 1950 – ICRC Archives, A PV.
86 Minutes of the plenary session of the Committee held on 27 April 1950 – ICRC Archives, A PV.
87 Idem. Minutes of the meeting of the Presidential Council held on 24 August 1950 – ICRC Archives, A PV.
a relief operation, mainly in the medical sphere. It believed that its delegates could not only improve the living conditions of minorities and refugees but also help restore their confidence.88

By recalling the traditional nature of its relief operation in Bengal, the ICRC wished to justify its action both in the eyes of the governments concerned and in those of the League of Red Cross Societies at a time when the division of responsibilities between the two organizations in terms of relief for civilians was the subject of heated debate within the International Red Cross.89

**Medical relief for refugees**

The ICRC medical teams landed in Calcutta in mid-June, a few weeks after Marti and his team had arrived. In agreement with the regional authorities and the local branches of the Indian and Pakistan Red Cross Societies, the teams were dispatched to the areas where the largest number of refugees were concentrated. On the Indian side, one team was sent to Dhubulia, where some 60,000 refugees were assembled, close to Calcutta, the capital of West Bengal. The second team was sent to Agartala, the capital of Tripura state, where another 70,000 refugees were grouped. At the time, the total number of Hindu refugees in India stood at nearly two million, some three-quarters of whom were in West Bengal.

On the Pakistani side, a team was sent to the Kurmitola camp near Dhaka, where close to 10,000 Muslim refugees were sheltering, and another team to Lalmonirhat, in the northern reaches of East Pakistan, near the border with West Bengal (Koch Bihar district) and Assam, where some 30,000 refugees were harbouring. By the end of August, with many having returned to their homes in Assam, the team moved on to the Sholoshahar camp, near Chittagong, in the south-eastern part of West Pakistan, where over one million refugees were assembled.

Each ICRC team set up and equipped a small hospital of 20 to 40 beds. In Marti’s words: “We had to start from square one, so to speak, as we had to rebuild and equip the hospitals before we could even begin to care for the ill.”90 The teams also set up outpatient clinics, where they treated several hundred patients daily, and food-distribution centres that dispensed milk to countless severely malnourished children. The centres in Dhubulia and Agartala also taught the elementary rules of hygiene to mothers and provided training for nurses. Altogether, the teams treated thousands of children and adults, supported the efforts of local authorities to take prophylactic

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88 Minutes of the meetings of the Commission for External Activities held on 3 and 10 May 1950 and minutes of the meeting of the Presidential Council held on 4 May 1950 – ICRC Archives, A PV. Letters of 28 April 1950 from Paul Ruegger to the prime ministers of India and Pakistan respectively. Note D 111 of 3 October 1950 on the ICRC’s activities in Bengal drawn up by J. Babel – ICRC Archives, B G 68/170 and B G 3/37f.

89 See pp. 86 ff. above.

90 Report by R. Marti on the ICRC’s operation in Bengal in 1950, appended to the minutes of the plenary session of the Committee held on 18 January 1951 – ICRC Archives, A PV.

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measures and distributed medical relief worth more than 200,000 Swiss francs. Marti also obtained a donation of 27 tonnes of powdered milk from UNICEF.

Although the ICRC brought its medical operation to a close on 15 December 1950, with the situation gradually returning to normal and the number of refugees on the decline, the organization did not leave before it had taken every necessary measure, in conjunction with the authorities and the Indian and Pakistan Red Cross Societies, to ensure that its work would be continued.\(^{91}\)

Despite initially difficult material conditions, its limited duration and a hostile climate, the ICRC’s operation in Bengal was, in Marti’s opinion, an unexpected success. He attributed this success to the expertise of the doctors and nurses involved, who had previously taken part in the ICRC’s activities for Palestinian refugees. Among the encouraging results obtained was a striking drop in the mortality rate in Dhubalia within a month after a hospital and a clinic were opened – even though the scale of the needs there far outstripped the available resources. Marti nevertheless believed that it would have been preferable to begin the ICRC operation where it had ended, so to speak, by training nurses and camp leaders, informing the authorities of nutritional requirements and organizing distributions of food, especially milk. As for the traditional role played by the ICRC, Marti noted that it was probably owing to the presence of the doctors and nurses that a rebellion was averted in Dhubulia, where the authorities had displayed little if any interest in medical care and food for the refugees. The ICRC’s operation came at the right time, serving as a safety valve. The presence of the doctors and nurses also helped to reduce tensions in the other camps. In Marti’s view, the handing over of the operation to the local authorities was also a success. Moreover, the governments of India and Pakistan had covered, as planned, the ICRC’s travel expenses and the cost of repairing the buildings.\(^{92}\)

President Ruegger concluded that the operation had not only been useful but had succeeded in demonstrating the ICRC’s ability to act effectively where it was allowed to work in full independence.\(^{93}\)

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\(^{91}\) Note D 111 of 3 October 1950, \textit{op. cit.} Note D 111 bis, dated February 1951, on the ICRC’s action in Bengal – ICRC Archives, B G 68/170. Minutes of the meetings of the Commission for External Activities held on 16 and 30 August and on 11 and 18 October 1950; minutes of the meeting of the Presidential Council held on 21 September 1950 – ICRC Archives, A PV. “ICRC mission returns from Bengal”, \textit{English Supplement, RICR}, Vol. IV, No. 1, January 1951, p. 11.

\(^{92}\) Report of 18 January 1951 by R. Marti on the ICRC’s operation in Bengal in 1950, \textit{op. cit.}

\(^{93}\) Minutes of the plenary session of the Committee held on 18 January 1951 – ICRC Archives, A PV.
Conclusion

How, then, should the ICRC’s activities on the Indian subcontinent be assessed with the benefit of hindsight?

At the time, Wenger’s work in Kashmir was considered useful by both India and Pakistan, which wanted it continue. Acting as a neutral intermediary, the ICRC delegate succeeded in building relations of confidence, at the highest level, with all the parties to the conflict in Kashmir. He ensured the implementation of the main provisions of the Geneva Conventions concerning wounded and sick military personnel, the protection of hospitals and the treatment of prisoners of war. He also facilitated the adoption of measures to protect, assist and transfer civilian minority groups and to trace and repatriate abducted women and children, despite the absence of protection for such persons under the Conventions. His successors, Marti and Burckhardt, continued his work, checking on the treatment afforded to prisoners of war by making regular visits to detention facilities, seeking out the most vulnerable civilians – interned members of minority groups, abducted women and children and trapped refugees – and drawing the attention of the authorities to their living conditions. Lastly, they drew up as complete and accurate a report as possible on the situation of refugees in Kashmir. Despite their modest resources, the delegates spared no effort to try and alleviate the plight of the victims.

Why, though, did the ICRC not take action sooner and deploy greater resources during the strife that shook the subcontinent?

The answer is that the organization was going through a difficult period: in a devastated and destitute Europe engaged primarily in healing its own wounds, the ICRC was deeply involved in assisting the victims of the Second World War and its aftermath at a time when it was also facing serious financial problems. The organization was therefore hesitant to commit itself to any new operations without being certain that it could obtain the necessary funds.

This was also a time when the ICRC was gradually scaling down its relief activities for civilians, except where it was the only organization able to work and where its role as a neutral intermediary was needed. This approach also applied to refugees, who, strictly speaking, did not come within its mandate and, above all, for whom it did not have any funds of its own.

In this context, the ICRC – which had closed down its delegation in British India in February 1947 – probably did not fully anticipate the scale of the tragedy that was about to unfold on the subcontinent. On the eve of independence, its main

95 See Introduction, pp. 19 ff. above.
96 The Indian and Pakistan Red Cross Societies did in fact help finance the ICRC’s activities on the subcontinent.
concerns were the reorganization and establishment of National Societies in India and Pakistan and the need to spread awareness of the Red Cross and of its principles and ideals in that part of the world. It also seems to have been insufficiently informed of the events. In the discussions preceding the dispatch of Otto Wenger to the region, no mention was ever made of the Kashmir War. All that was discussed was the massive exodus of refugees, by which the ICRC felt it had been caught unawares: it found that, for lack of financial and other resources, its means were derisory in the face of the magnitude of the needs. As a former ICRC staff member later put it, there was something at once insane and admirable about launching an operation in such circumstances.

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97 Minutes of the meetings of the Bureau held on 10 July and 7 August 1947 – ICRC Archives, A PV.
98 Interview with Melchior Borsinger von Baden conducted by Paul Reynard on 22 and 23 June 1989 – ICRC Archives, B AG 012/H.O.
Historical background

*Origins of the conflict: from the nineteenth century to the end of the First World War*

The direct origins of the Palestine conflict go back to the second half of the nineteenth century.

At that time, the major European powers were competing to expand their spheres of influence across the territory of the Ottoman Empire, which was then in sharp decline and grappling with the emergence of Arab nationalism in the Middle East. Britain, which already possessed Malta, Cyprus and Aden, established a *de facto* protectorate over Egypt in 1882\(^1\) and secured areas of influence in Persia and Afghanistan. It was particularly keen to expand its presence in Syria, Mesopotamia (Iraq) and Palestine in order to gain control over communication routes between Egypt and the Indian Empire.

The end of the nineteenth century also saw the birth of Zionism and the establishment of the first Jewish farming settlements in Palestine, in response to pogroms in Russia and a surge in anti-Semitism in various European countries.

The first World Zionist Congress was held in Basel, Switzerland, in 1897. It espoused the ideas of Theodor Herzl, author of *The Jewish State* (1896), who believed that the only way for the Jewish people to escape persecution was by creating a State of their own in Palestine. The Congress laid the foundations for the World Zionist Organization, which aimed to establish a publicly and legally assured home for the Jewish people in Palestine. This was to be done, in particular, by encouraging the immigration of Jewish workers into Palestine, setting up farming settlements and industries there, and creating the necessary financial instruments, for instance for the purchase of land (e.g. the Jewish National Fund, established in 1901). Thousands of Jews thus immigrated into Palestine where, on the eve of the First World War, they accounted for about one eighth of the population.

\(^1\) The United Kingdom officially declared Egypt a protectorate in 1914.
With the onset of the First World War, Turkey joined in on the German side. Meanwhile, the British government, seeking to beat the Turks and secure control over the lands it coveted, was drawn into a series of conflicting commitments.

First, the British concluded an agreement with the Arabs, who wanted independence and offered their help against the Turks. In an exchange of correspondence from 1915 to 1916 between the British High Commissioner in Cairo, Sir Henry McMahon, and the Hashemite Emir and Grand Sharif of Mecca, Hussein ibn Ali, who enjoyed the confidence of the Arab nationalist leaders, London promised the creation of an independent Arab kingdom at the end of the hostilities. According to the borders outlined, this would encompass Arabia, Palestine, Transjordan, Iraq and Syria, except for a coastal strip west of the districts of Damascus, Homs, Hama and Aleppo, which corresponded to the French zone of influence in Lebanon. In June 1916, Hussein and his two sons, Faisal and Abdullah, initiated a revolt and Arab troops came to the aid of the British in fighting the Turks.

The above notwithstanding, Britain then secretly concluded the Sykes-Picot Agreement with France in 1916, whereby the two countries divided the Arab territories of the Ottoman Empire into spheres of influence. Syria and Lebanon were assigned to France, while Iraq and Transjordan were given to Britain. Part of Palestine was to come under international administration, and the rest was to become a British protectorate.

Lastly, in November 1917, the British Foreign Secretary Lord Balfour sent a letter to Lord Rothschild, who was on the Zionist Organization’s Political Committee, declaring that the British government looked favourably upon the establishment in Palestine of a national home for the Jewish people. For, as the First World War neared its end, Britain realized that the existence of a Jewish State in Palestine could help shore up British influence over the country, which might be useful in dealing with any Arab demands.

From the interwar period to the Second World War: the British Mandate

At the end of the First World War, the Allies did not keep their promises to the Arabs. The first nationalist uprisings were put down, and the peace conferences put the Arab territories of the former Ottoman Empire under the mandate system introduced by the Covenant of the League of Nations. Syria and Lebanon were placed under French mandate, while Palestine, Transjordan and Mesopotamia came under British mandate.

After being driven from Damascus by France in 1920, Faisal was installed on the Iraqi throne by the British. His brother Abdullah was entrusted with the Emirate of Transjordan, which was detached from Palestine in 1923. Meanwhile, London governed Palestine directly. Iraq became independent in 1932, while Lebanon and Syria, after some delays, gained full independence after the departure of French troops in 1946. Transjordan also became independent in 1946.
The British Mandate for Palestine was confirmed in a legal instrument by the League of Nations on 24 July 1922. In addition to the usual provisions entrusting the Mandatory Power with the task of guiding “communities formerly belonging to the Turkish Empire (...) until they are able to stand alone” (Article 22 of the Covenant of the League of Nations), the document included the Balfour Declaration. This meant that the British government now found itself in the contradictory position of having to guarantee, at one and the same time, the rights and aspirations for independence of the Arab population of Palestine and the establishment of a Jewish national home in that country. It was soon clear quite how irreconcilable these different interests were.

Bolstered by the guarantees received, the Zionists immediately set about laying the foundations for a national Jewish homeland in Palestine, pursuing their strategy of land acquisition and agricultural and industrial settlement. They cooperated with the Mandatory Power and organized themselves politically. The Jewish community in Palestine set up its own institutions, public services and even its own army (the Haganah) to ensure its defence. From 1929, the Jewish Agency assumed responsibility for executive power, dealing with issues such as immigration, land acquisition, security and foreign relations.

The Palestinian Arabs saw Zionism’s end goal of making Palestine a Jewish State as a direct threat to their own political interests. While the Jews exploited all the possibilities offered by the British Mandate, the Arabs boycotted it out of principle in order not to legitimize an institution that had robbed them of their independence. The further the establishment of a Jewish national homeland progressed, the more their resistance grew, for it not only deprived them of their land and livelihoods, but threatened their status as a majority in the long term. They continued to demand an end to Jewish immigration and land acquisition.

The first clashes between Jews and Arabs took place in 1920 and 1921, with more in 1929. Hundreds of people died or were injured.

After Hitler’s rise to power in Germany, Jewish immigration increased significantly. This sparked the Great Arab Revolt of 1936 to 1939 – led by the Grand Mufti of Jerusalem, Haj Muhammed Amin al-Husseini, who was also the leader of the Arab Higher Committee – during which around 5,000 Arabs were killed, 15,000 wounded and 5,600 arrested. The Haganah and its dissident wing, the Irgun Zvai Leumi, worked with the British forces to suppress the uprising.

The revolt nonetheless prompted the British government to pay greater heed to Arab interests and to publish the White Paper of 17 May 1939. On the eve of the Second World War, Britain was intent on ensuring the neutrality of the Arab world, fearing that Nazi propaganda might win over supporters there. At the time, there were 476,000 Jews in Palestine, mainly in urban areas, making up nearly one third of the total population. The White Paper called for the establishment of an independent, bi-national Palestinian State within ten years. It stipulated that Jewish immigration

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2 Encyclopædia Britannica.
3 Ibid.
should be limited to a maximum of 75,000 people over the following five years, after which it should be subject to Arab consent. Jewish residents should not exceed one third of the total population of the country, and the acquisition of land by the Jewish Agency should be restricted. The Zionists rejected these provisions, which thwarted their aspirations at a time when many Jews were seeking to flee Nazi persecution.

The White Paper marked the end of *entente* between the Jews and the British. Illegal immigration increased. The *Irgun* launched an armed struggle against the British, which it nonetheless suspended during the Second World War until 1944, unlike the *Lehi*.

*From the end of the Second World War to the vote on the partition plan*

At the end of the Second World War, the discovery of the Nazi extermination camps and the tragic plight of the Jews in displaced persons’ camps brought the Palestine question back under the international spotlight. It was now connected – in particular in Western public opinion, although this link was contested by the Arab world – to the fate of the Holocaust survivors. For the Zionists, the need to establish a Jewish State in Palestine was more pressing than ever. Since the Biltmore Conference of 1942, this goal had the support of American Jews.

In September 1945, the British government decided to maintain the provisions of the 1939 White Paper, while nonetheless easing them: Jewish immigration could continue beyond the quota of 75,000 but at a maximum of 1,500 people per month.

Intent on securing their interests in the Middle East, the British did not want to upset the Arabs, who had set up the League of Arab States on 22 March 1945 and were demanding independence for Palestine and a complete halt to Jewish immigration. The Arabs warned on several occasions that the creation of a Jewish State in Palestine would unleash war.

The British decision provoked the ire of the Jewish Agency, which was then struggling to obtain 100,000 visas for immediate use. From October 1945, the Agency’s armed wing, the *Haganah*, joined the armed fight against the British. Nine months of escalating violence ensued. This culminated on 22 July 1946 with the attack by the *Irgun* on the King David Hotel in Jerusalem, which housed the British administrative and military headquarters in Palestine, leaving around one hundred dead. From then on, the *Haganah* and the Jewish Agency, headed by David Ben Gurion since 1935, gave up the armed struggle in favour of diplomacy. But not so the *Irgun* and Stern Gang, which intensified their attacks of different kinds.

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4 The *Lehi* (*Lohamei Herut Israel*), also known as the Stern Gang after its founder Abraham Stern, was an extremist group that broke away from the *Irgun*, which it criticized for observing a truce from 1940 in the fight against the British.

5 Named after the New York hotel that hosted a conference of Zionist organizations in May 1942.

6 The League of Arab States – comprising Egypt, Iraq, Lebanon, Saudi Arabia, Syria, Transjordan and Yemen – included Palestinian representatives in its work from the outset.
Before the Second World War, the British had mainly had to contend with the Arabs. Now they had to deal with the Jews. To maintain security, they were obliged to keep on a significant military presence in Palestine, at a time when Britain itself was beset by serious economic problems. The British government sought the support of the United States but in vain: President Truman repeatedly called for an end to restrictions on Jewish immigration and the granting of the 100,000 visas.

The failure to gain US support, at a time when the situation on the ground was veering out of control – as illegal immigration and attacks by Jewish extremist groups increased – and the deadlock in reconciling Arab and Jewish interests prompted London to bring the Palestine question before the United Nations on 18 February 1947.

Thus, at a special session held in New York from 28 April 1947, the UN General Assembly set up an inquiry committee on Palestine – the United Nations Special Committee on Palestine (UNSCOP) – whose findings were discussed at its second regular session.

Then, on 29 November 1947, the General Assembly adopted Resolution 181(II) – with 33 votes for (including the United States and Soviet Union), 13 against and 10 abstentions (including the United Kingdom) – which recommended the adoption of a partition plan with economic union for the future government of Palestine. The plan stipulated, in particular: the end of the British Mandate no later than 1 August 1948; the creation of two independent States, one Jewish and one Arab; and a special international regime for Jerusalem. A new United Nations Commission on Palestine was set up comprising representatives of five Member States. It was supposed to administer the areas progressively evacuated by the Mandatory Power and to ensure the transfer of authority during the period between the end of the Mandate and the establishment of the Jewish and Arab States. Palestine was to be divided into eight parts. Three were to be given to the Jewish State, namely: eastern Galilee; the coastal plain, from south of Acre to the north of the Gaza Strip; and much of the Negev. Three parts were to go to the Arab State: central and western Galilee; the hills of central Palestine (the West Bank); and the Gaza Strip. The seventh part comprised the town of Jaffa, which was an Arab enclave in Jewish territory, and the eighth was the city of Jerusalem, which was to come under an international regime.

The Jewish Agency responded favourably to the partition, which legitimized the establishment of a Jewish State and gave it 55% of the territory of Mandatory Palestine. The Arab League States and the Arab Higher Committee rejected it, as a matter of principle and because a significant minority of the Arab population (around 450,000 people) would be included in the Jewish State. For its part, the

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7 Afghanistan, Cuba, Egypt, Greece, India, Iran, Iraq, Lebanon, Pakistan, Saudi Arabia, Syria, Turkey and Yemen.
8 Declared illegal in 1937 by the Mandatory authority, a new Arab Higher Committee was set up in Palestine in November 1945. The Arab Higher Committee and the Jewish Agency were recognized as representative bodies by the United Nations, to which they sent delegates.
9 In 1946 there were 1,269,000 Arabs and 678,000 Jews in Palestine (Encyclopædia Britannica).
British government announced that it would fulfil its obligations until the end of the Mandate. However, neither its troops nor its administration would cooperate in implementing by force decisions that were not accepted by the two parties in Palestine. This policy was reflected, *inter alia*, in the British refusal to allow the United Nations Commission, created pursuant to Resolution 181 in order to ensure a smooth transition, to set up a presence in Palestine, for fear of aggravating the Arabs. A group of Commission representatives was nonetheless allowed to conduct a preliminary visit in early March 1948 to discuss the conditions for the body’s establishment in Palestine.

**The end of the Mandate and the Jewish-Arab Civil War**

Terrorist attacks between Jews and Arabs erupted immediately after the General Assembly vote.

On 11 December 1947, the British government announced that the Mandate would end on 15 May 1948, several weeks ahead of the deadline set by the United Nations.

Meanwhile, the Arab League pledged to support the Arab Palestinians and organized an army of volunteers headed by Fawzi Al-Qawuqji, a veteran of the 1936–1939 Arab Revolt.

Fighting soon spread across the country, pitting Palestinian fighters, reinforced by the volunteer army, against the Haganah, Irgun and Lehi. By the end of February 1948, a total of 689 people had died and 1,909 had been wounded.¹⁰ At first, the Arabs seemed to have the upper hand, making the most of their strategic advantages in the field. They tried to sever communication lines between the main Jewish towns and to encircle Jewish settlements isolated in Arab territory. By late March, the road between Tel Aviv and Jerusalem, home to 100,000 Jews, was almost completely cut, and fewer and fewer supply convoys were getting through to Jerusalem. The Jewish settlements in the Etzion bloc, on the Hebron road south of Jerusalem, were also under siege.

In light of the worsening situation and the deadlock in implementing Resolution 181, the United States representative to the Security Council proposed, on 19 March, suspending the partition, calling a truce and convening a special session of the General Assembly to consider the establishment of a temporary international trusteeship over Palestine at the end of the Mandate, until an agreement could be reached on the future government of the country. This last proposal, made by the State Department without the approval of the US president, exasperated the Jews. It was eventually sweepingly rejected within the United Nations system.

Meeting in a special session from mid-April, the General Assembly was, however, unable to agree on an alternative plan. Meanwhile, the Security Council was calling for a truce and set up a Truce Commission on 23 April, comprising the American, French and Belgian consuls general in Jerusalem. On the last day of its special session, 14 May, the General Assembly decided, as a last resort, to appoint a mediator, to

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“arrange for the operation of common services necessary to the safety and well-being of the population of Palestine”, “to promote a peaceful adjustment of the future situation of Palestine” and to cooperate with the Truce Commission. It also relieved the United Nations Palestine Commission of its responsibilities.\textsuperscript{11}

On the ground, the military situation swung in favour of the Jews in April and early May.

Thus, in Galilee, the Arab volunteer army, which had advanced within 20 kilometres of the Mediterranean, was forced to retreat by mid-April. The Haganah took Tiberias on 18 April, Haifa on 22 April and Safed on 10 May. The villages around Acre surrendered shortly before the town itself on 17 May. In the Tel Aviv area, where Jewish forces had conquered a number of Arab villages, Jaffa capitulated on 13 May. In and around Jerusalem, Jewish forces managed to re-establish contact with most of the Jewish neighbourhoods and surrounding settlements and even occupied several Arab neighbourhoods, including Katamon. However, apart from a temporary breach, they failed to lift the blockade of the city. The Arabs continued to control the access roads and water sources, in particular the Latrun reservoir, which supplied the whole Jewish part of the city.

The month of April was also marked by the massacre at Deir Yassin, an Arab village on a hill several kilometres west of Jerusalem. Irgun and Lehi troops attacked the village on 9 April, killing over 200 inhabitants, including women, old men and children. Though condemned by the Jewish Agency, the massacre and ensuing wave of terror played a decisive role in the exodus of the Palestinian Arabs.

Four days after Deir Yassin, an attack on a Jewish medical convoy, which was travelling under military escort to Hadassah Hospital on Mount Scopus in north-east Jerusalem, left over 70 dead and around 20 wounded.

\textit{The birth of Israel and the Arab-Israeli War}

The British High Commissioner and British troops left Jerusalem on the morning of 14 May 1948, one day earlier than foreseen, the formal end of the Mandate having been set for midnight on 14 May.

The Jewish forces immediately went on the offensive. They seized control of all the southern and south-western neighbourhoods of Jerusalem and the main government buildings in the heart of the new city. In late afternoon, Israel’s independence was proclaimed by David Ben Gurion, who became prime minister of the Provisional State Council, while Chaim Weizmann, former head of the World Zionist Organization, was appointed president.\textsuperscript{12} The new State was recognized \textit{de facto} by the United States a few minutes after its proclamation, in accordance with the guarantee given by President Truman to Chaim Weizmann in late April. On 17 May, it was recognized \textit{de jure} by the Soviet Union.

\textsuperscript{11} Resolution 186 (S-2).
\textsuperscript{12} Their respective appointments were confirmed by the Israeli elections of February 1949.
On 15 May, the troops of several Arab States – Egypt, Iraq, Lebanon, Syria and Transjordan – went to war against Israel. They rapidly gained ground. In the south, the Egyptians took over most of the Negev and crossed through Beersheba and Bethlehem before reaching the southern outskirts of Jerusalem. They also advanced along the coast towards Tel Aviv. In Jerusalem itself, the Arab Legion of Transjordan was active from 18 May, under the command of Glubb Pasha. Besieged, the old city’s Jewish quarter capitulated on 28 May after fierce fighting. Battles also took place in Galilee in the north and around Jenin, Nablus and Tulkarem in the centre of the country.

On 20 May, Count Folke Bernadotte, the nephew of the King of Sweden, was appointed as the United Nations mediator in Palestine. As a matter of priority, he set about securing a one-month truce, which took effect on 11 June. Both Arabs and Israelis seized the opportunity to build up their troops. They rejected the plan submitted to them by the mediator and resumed fighting on 9 July.

From 9 July until a second truce began on 18 July, the Israelis regained the upper hand with the conquest of Lydda and Ramleh on the central front and Nazareth and environs in the north, which gave them control over all of central Galilee. They also strengthened their position on the southern front, although the Negev remained largely in Egyptian hands.

During the second truce, which was never fully respected, Count Bernadotte drew up a new plan. This envisaged the inclusion of all of Galilee in Israel, which would lose the Negev in exchange. Jerusalem was to keep the international status provided for by Resolution 181 of 29 November 1947. Meanwhile, the Arab territories of the former Mandatory Palestine were to be merged with Transjordan, subject to the agreement of the Arab States and the population. The mediator defended the Palestinian refugees’ right to return to their homes or to receive compensation for their losses.

This plan, which the mediator submitted in person to the United Nations General Assembly, also met with the opposition of most of the parties concerned. On 17 September, Count Bernadotte was shot at point-blank range in Jerusalem by members of the Lehi.

On the pretext that Egypt had violated the ceasefire, Israel launched two large-scale offensives in the Negev, the first from 15 to 22 October and the second from 22 December to 7 January 1949. Making extensive use of air power, the Israelis gained control of the Negev, except for the Faluja pocket east of the town of Majdal, which surrendered only after the Egyptian-Israeli armistice was signed.

By the start of the last ceasefire, Israel had increased its territory by one third compared to that originally assigned to it by Resolution 181.

Meanwhile, on 11 December 1948, the General Assembly adopted Resolution 194(III), which set up a Conciliation Commission, based in Jerusalem, to take over the functions of the mediator and the Truce Commission; confirmed the international status of Jerusalem; and, above all, resolved “that the refugees wishing to return to their homes and live at peace with their neighbours should be permitted to do so at the

13 Renamed Ashkelon by Israel.
27. Israel’s borders in 1949.
earliest practicable date, and that compensation should be paid for the property of those choosing not to return and for loss of or damage to property which, under principles of international law or in equity, should be made good by the Governments or authorities responsible”. It was left to Bernadotte’s interim successor, Ralph Bunche, to facilitate the conclusion of armistices.

Armistice agreements were signed between Israel and Egypt on 24 February, Israel and Lebanon on 23 March, Israel and Jordan14 on 3 April and Israel and Syria on 20 July 1949. With some exceptions, these agreements confirmed the ceasefire lines, as a result of which Jerusalem was divided into two parts, one Israeli in the west and the other Arab in the east. The international regime intended for the Holy City remained a dead letter.15

On 11 May 1949, Israel was accepted as a Member State of the United Nations, and on 1 January 1950 it made West Jerusalem its capital.

On 24 April 1950, the West Bank of the river Jordan, Cisjordan, was formally annexed by Transjordan, which became the Hashemite Kingdom of Jordan.

As for the Gaza Strip, it came under de facto control by Egypt, although it was not annexed.

The Palestinian entity did not come into being as a State.

From a humanitarian perspective, the plight of the Palestinian refugees was one of the gravest consequences of the Palestine War and the creation of the State of Israel. According to different estimates, between 520,000 and one million16 Palestinian Arabs were displaced between the end of 1947 and January 1949. The generally accepted figure stands somewhere between 700,000 and 800,000 people, most of whom fled to the West Bank and Gaza Strip but also to Jordan, Lebanon and Syria where they in most cases found shelter in wretched camps.

At the end of 1950, there were around 170,000 Arabs17 left in Israel, mainly in Galilee. Until 1966 they lived under a military regime that imposed severe restrictions on them.18

14 The armistice with Jordan included the Iraqi front.
15 During the Arab-Israeli war of 1967, Israel occupied and then annexed East Jerusalem.
16 Encyclopædia Britannica.
Prelude to action

The situation of the ICRC

When the Palestine question regained international prominence after the end of the Second World War, the ICRC was fighting for its very survival. It was blamed from different quarters for its silence over the Nazi crimes and its lack of independence vis-à-vis Switzerland. This criticism came not only from the communist world, but also from the United States and other Western countries. It reverberated within the Red Cross Movement itself, where there was pressure to revise the Statutes of the International Red Cross. The National Societies of Eastern Europe sought to abolish the ICRC and transfer its duties to the League of Red Cross Societies. Meanwhile, Count Bernadotte, the president of the Swedish Red Cross and chairman of the Standing Commission of the International Conference of the Red Cross, suggested internationalizing the ICRC, or – after weighing the risk of a politicization of the International Red Cross given the incipient Cold War – subordinating it to a strengthened Standing Commission. These proposals were discussed by the Special Study Commission for reinforcing the work of the ICRC, which presented its conclusions at the 17th International Conference of the Red Cross held in Stockholm in August 1948.

Financially, the ICRC was on the brink of bankruptcy. The ICRC’s involvement in Palestine thus began at a time when the organization was seeking to reassert its position within the Red Cross Movement and, more broadly, the international community. It also coincided with the decisive phase in the preparations for the adoption of the new Geneva Conventions (the 17th International Conference of the Red Cross of 1948 and the Geneva Diplomatic Conference of 1949). The Palestine conflict thus provided a threefold opportunity for the ICRC: to play its role as a neutral intermediary in armed conflict, at a time when this role was contested within the International Red Cross; to try out the draft conventions; and, in particular at the beginning, to demonstrate its resolve to help the survivors of Nazi persecution.


19 See Introduction, pp. 24 ff. above.
20 See pp. 44 ff. above.
21 See footnote 50, p. 49 above.
22 See pp. 53 ff. above.
23 See pp. 57 ff. above.
24 See Introduction, pp. 19 ff.
25 See pp. 70 ff. and 226 ff. above.
Early ICRC involvement

In 1945, the Hebrew Committee for National Liberation, a Jewish organization close to the Irgun with representatives in Washington and Paris, informed the ICRC that some 300 Jews from Palestine, suspected of having contacts with extremist groups in Palestine, had been deported and interned by the Mandatory Power in a camp in Asmara, Eritrea. The ICRC visited the internees once in Eritrea in June 1946, and again in October 1947, after their transfer to Gil Gil camp in Kenya.26

On 3 March 1947, following the declaration of martial law in Jewish-majority areas of Palestine, the Hebrew Committee for National Liberation asked the ICRC to open a delegation in Palestine in order to protect the Jewish civilian population from British repression.27

From that moment on, the ICRC sought to take action in Palestine, where confrontations between the Jewish opposition and the Mandatory Power were escalating. However, it could hardly respond to an appeal by an organization close to extremist circles; so it tried, in vain, to obtain confirmation of this request from the Jewish Agency, which had an official status and which the ICRC regarded as the sole representative body.28

In the meantime, it instructed one of its delegates based in Cairo,29 Charles Helbling, to travel to Palestine to visit interned German civilians30 and, while there, to assess to what extent the British and Jewish sides would accept ICRC action aimed at limiting acts of collective reprisal or directed against innocent people, such as the taking and execution of hostages.31 During his visit to Palestine in June 1947, the delegate was shown round a camp holding Jewish internees in Latrun, although he was unable to talk to any of them in private. He did not raise the question of a possible broader role for the ICRC in the country, preferring to leave this for a later visit. In his report to the ICRC, he stressed that the Palestine question was a problem that needed to be solved not only between the Jews and the British, but also between the Jews and the Arabs.32

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28 Minutes of the meetings of the Bureau held on 27 March and 16 May 1947 – ICRC Archives, A PV.

29 Where the ICRC had maintained a delegation since the Second World War.

30 Still interned after the Second World War.


32 Report by C. Helbling, appended to the minutes of the meeting of the Delegations Commission held on 20 August 1947, and minutes of the meeting of the Bureau held on 21 August 1947 – ICRC Archives, A PV.
At the end of July 1947, the ICRC began to assist the 4,500 Jewish emigrants on board the *Exodus 1947*, in response to requests first by the Hebrew Committee for National Liberation and then by the Jewish Agency. The emigrants, mostly survivors of Nazi persecution, had set off from Sète, in the south of France, on 12 July. Six days later, the *Exodus* was intercepted by British destroyers off the coast of Gaza and taken to Haifa. The passengers were transferred onto three British warships and deported back to the south of France. There, however, they refused to leave the vessels, which were anchored off Port-de-Bouc, declaring that they wanted to go to Palestine or, failing that, to Cyprus. As the stand-off continued, the ICRC launched an emergency medical operation, with the consent of the French and British authorities. It placed a doctor on each vessel, where the passengers were found to be in a poor state of health, weakened by bad living conditions. When the British authorities decided to send the three ships to Hamburg in order to transfer the emigrants to camps in the British occupation zone, the ICRC doctors, who had in the meantime built up medical supplies, accompanied the passengers until they reached their destination on 8 September.\(^{33}\)

The ICRC had not, however, given up on the idea of working in Palestine itself.\(^{34}\) The adoption by the UN of the partition plan on 29 November 1947, the Arab reaction thereto and the British announcement of their withdrawal on 15 May 1948 only strengthened its resolve. It again asked one of its delegates in Cairo, Jean Munier, to go to Palestine and discreetly sound out the British, Jews and Arabs about whether the ICRC could usefully offer its services to help alleviate the humanitarian consequences of the violence.\(^{35}\)

The Jewish-Arab Civil War

The British request and the ICRC’s exploratory visit

At this juncture a new circumstance arose. On 5 January 1948, the ICRC received a telegram from the British government – confirmed by a letter to the ICRC delegate in London, dated 6 January – conveying a request from the British High Commissioner for Palestine that the ICRC send a representative to Palestine and organize medical relief for the Arab population.\(^{36}\)

From then on the Palestinian question could be addressed openly. The ICRC decided to organize an exploratory visit led by Dr Roland Marti, head of its medical

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34 Minutes of the meeting of the Delegations Commission held on 14 November 1947 – ICRC Archives, A PV.
35 Note No. 4195 by P. Kuhne to the ICRC delegation in Cairo, dated 9 December 1947 – ICRC Archives, B G 59/1/GC, ex-831.
department, accompanied by an Arabic-speaking delegate, Jacques de Reynier, and the Cairo-based Jean Munier. The main goals were: to establish contact with all the authorities in Palestine, namely the British, Arab and Jewish, and with the local Red Cross and Red Crescent Societies and the Magen David Adom; to obtain precise information about the medical situation as it then stood and as it was likely to stand after the departure of the Mandatory Power; to offer the ICRC’s services as a neutral intermediary and urge both sides to apply the Geneva Conventions; and, lastly, to examine the question of how to fund a relief operation.

The ICRC informed the British government that the aim of the exploratory visit was to assess the whole range of humanitarian activities that it could possibly conduct in Palestine – with particular reference to its traditional role of visiting people deprived of their freedom – and not just the provision of medical assistance requested by the High Commissioner. After leaving Geneva on 20 January, the delegates first stopped in Cairo, where they held talks with the Egyptian prime minister, Nokrashy Pasha, the secretary-general of the Arab League, Azzam Pasha, and the Grand Mufti of Jerusalem, Haj Amin al-Husseini, all of whom promised to speak in support of the ICRC in their dealings with the neighbouring Arab countries and the Arab Higher Committee in Jerusalem. On 29 January, the delegates arrived in Palestine, where they established contact with the British authorities – including the High Commissioner, Sir Allan Cunningham, his deputy, Sir Henry Gurney, and the head of the health services – and with the heads of the Jewish Agency, the Jewish National Council (Vaad Leumi), the Arab Higher Committee and the Arab Medical Association in Jerusalem.

The British authorities confirmed their concerns to the ICRC. The clashes that had erupted immediately after the adoption of the partition plan had left thousands of wounded. The growing instability and a series of bloody incidents carried out by both sides had prompted the Jewish National Council to call on all Jewish doctors and nurses working in government hospitals in mixed Arab-Jewish areas to return to their own hospitals. This had deprived the government hospitals of their most qualified staff, which would be especially catastrophic for the Arabs after the British departure, given their lack of medical infrastructure. The High Commissioner believed that the ICRC, thanks to its specifically neutral character, would be the only body capable of guaranteeing health services at that time, especially since the Arabs refused to cooperate with the United Nations Palestine Commission.

The delegates replied that the ICRC was duty bound to help all victims of the conflict, in accordance with its principles. But they also clearly stated its limits: it was

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37 Minutes of the meeting of the Bureau held on 8 January 1948 – ICRC Archives, A PV.
38 Jewish emergency aid organization, founded in 1931, the equivalent of the National Societies but using the red star of David instead of the red cross or red crescent emblems.
39 Minutes of the meeting of 19 January 1948 – ICRC Archives, B G 59/1/GC, ex-827.
40 Letter of 27 January 1948 from the ICRC to the Colonial Office and note No. 2 by P. Kuhne to Dr Marti dated 30 January 1948 – ICRC Archives, respectively B G 3/82 and B G 59/1/GC, ex-827.
not the ICRC’s role to ensure the functioning of health services or to substitute for a
government administration in any way. It had neither the experience nor the means
for this. Its primary tasks were ensuring the application of the Geneva Conventions
and carrying out its customary activities. As for sending medical personnel and
supplies, this would depend on its financial situation.41

Meanwhile, the Arab authorities confirmed the need for medical assistance and
reported that they had set up an emergency committee to channel any medical
supplies arriving from Arab countries. The Jewish authorities were more interested in
humanitarian protection than material support, their main concern being to ensure
the safety of the wounded and sick (e.g. hospitals and medical and funeral convoys)
and women and children. Lastly, both Jews and Arabs undertook to apply the Geneva
Conventions, on condition that the ICRC addressed a formal appeal to them and, on
the Arab side, as long as the Arab League and the Grand Mufti gave their agreement.

The ICRC delegates spent ten days assessing the medical situation in Palestine.
They found that health services on the Arab side were generally not well organ-
ized and were short of everything – medicines, medical material, ambulances and
personnel – unlike the Jewish side, which had a modern infrastructure and qualified
staff. Religious mission hospitals were making a significant contribution, although
most of them looked to the ICRC for protection and financial help.42

Before leaving Palestine, the delegates drew up a working plan with a budget,
which was submitted to all parties concerned, subject to approval by ICRC headquar-
ters in Geneva.

The basic proposal was that, while it was out of the question for the ICRC to
substitute for public health services, it could place the hospitals under its emblem and
ensure they could work safely, until such a time as the future authorities could guar-
antee this. This meant, as spelled out in the working plan:

To see to it that the spirit, if not the letter, of the Geneva Conventions is applied and
respected by combatants and civilians. In practice, therefore, to:

a) endeavour to ensure respect for existing establishments and organizations which have
   a humanitarian aim and are of general utility, i.e. hospitals, dispensaries, laboratories,
   ambulances, medical personnel, orderlies and nurses, the emblems of the Red Cross,
   Red Crescent and Magen David Adom, in order to prevent their destruction and to
   allow them to work.

b) endeavour to secure the freedom of traffic movement on roads leading to hospitals
   and burial grounds, for vehicles displaying any one of the emblems of the Red Cross,
   Red Crescent, or Magen David Adom (...).

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41 At this time, the ICRC had no funds of its own to launch relief operations and depended on those
provided by governments and the National Red Cross Societies.

42 Report by R. Marti on the trip to Palestine from 20 January to 19 February 1948 – ICRC Archives,
B G 59/1/GC, ex-827. Minutes of the meeting of the Bureau held on 26 February 1948 – ICRC
c) allocate and distribute available means and relief in the form of personnel and supplies already there, such as medical and food supplies, and transport.

d) take delivery of, transport and distribute relief arriving from abroad.

e) protect the non-combatant civil populations (women, children and the aged), by finding practical means for their removal to points outside the fighting areas, and by setting up neutral zones, organizing relief, etc.  

To put this plan into action, relationships of trust needed to be established with the organizations working in the field – the Red Cross and Red Crescent Societies, the Magen David Adom, medical associations, religious missions, etc. – and with all the military and political authorities effectively exercising power. De Reynier, who stayed in Jerusalem, was instructed to set to work without delay, while Munier returned to his post in Cairo on 18 February and Dr Marti went back to Geneva to report on the mission.

The appeal to apply humanitarian principles

To implement the working plan, an additional eight delegates and ten nurses needed to be sent to Palestine. Before going ahead, however, the ICRC wanted to obtain, firstly, the formal commitment of all parties that they would apply the principles of the Geneva Conventions, a sine qua non condition for its work in Palestine; and, secondly, guarantees that its costs would be covered. It believed that it could not launch medical and relief activities without receiving assurances at the very outset that all victims of the conflict would be treated impartially.

Dr Marti and Munier therefore carried out a second trip, which took them to half a dozen countries in the Middle East from 2 March to 21 April 1948, with the dual goal of securing promises that the Conventions would be applied in the event of conflict and obtaining financial and material support.

After receiving pledges in particular as regards funding, on 12 March the ICRC launched an appeal to the Arab and Jewish people and their representative authorities in Palestine:

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44 Minutes of the meeting of the Bureau held on 26 February 1948 – ICRC Archives, A PV.

45 The working plan was initially budgeted at one million Swiss francs. The ICRC managed at the outset to secure 50% funding from the British government, 25% from the Jewish authorities and 25% from the Arab countries neighbouring Palestine. By the end, however, only 66% of the ICRC’s activities during the Palestine conflict were actually covered, the initial budget having been exceeded, and a negative balance of 500,000 francs was borne by the ICRC.
In spite of the fact that the present incidents in Palestine are not an armed conflict between two sovereign States, the International Committee of the Red Cross holds it to be its duty, in the interests of those who are the victims, to invite the parties – if they decline to give up the resort to force – to observe the traditional terms of the law of nations and to apply as from this day, the principles of the two Geneva Conventions of July 27, 1929.

The first of these Conventions provides for the relief of the wounded and sick, and the second bears on the treatment of prisoners.

In accordance with the true purpose of these Conventions, the International Committee draws particular attention to the following humanitarian principles:

– Protection shall be given to the wounded and sick, and without distinction they shall be treated with humanity and shall be given the care which their condition requires. The vehicles for the transport of the wounded and sick, the mobile medical units and the fixed establishments of the medical service, the medical personnel as well as the medical equipment and stores, shall be respected and be accorded protection in all circumstances.

– Respect for the dead, that is for the bodies of the fallen and for the funeral convoys for their burial.

– Safety for all who take no part in the fighting, especially women, children and the aged.

– Right of every combatant who falls into the hands of the adverse party to be treated as a prisoner of war.  

The text of the appeal was handed immediately to the representative bodies of the two parties concerned and to the Mandatory Power for information. It was also published in the local press and broadcast on radio, following a press conference organized by de Reynier to explain the role of the ICRC and the principles underlying its action. The ICRC also sought the agreement of the United Nations Palestine Commission, which it obtained at the end of March.

The ICRC received positive replies from the Arab and Jewish authorities on 3 and 4 April respectively. The former agreed to abide by the “minimum conditions set out in the Appeal (...) and to do all that is humanly possible to that end”, in accordance

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47 Note No. 7 dated 12 March 1948 and monthly report No. 1 by J. de Reynier for March 1948 – ICRC Archives, B G 59/1/GC, ex-830.

48 Note No. 28 by J. de Reynier to the ICRC dated 8 April 1948 – ICRC Archives, B G 59/1/GC, ex-830.

with the Arab and Muslim traditions and customs of humanitarian conduct”, while the latter gave their word to respect “the Geneva Conventions of 1929, in relation to armed forces and also to civilians, in so far as the said Conventions apply to civil populations”.\(^{50}\) On 7 April, the Arab League informed the ICRC that the Arab Higher Committee had its “moral support” regarding the application of the principles enshrined in the Conventions.\(^{51}\)

As a result, the ICRC could proceed with its plan of action, which had become all the more urgent given the steady deterioration of the situation, as reported by its delegate from mid-March. While the US representative to the United Nations was calling into question the partition of Palestine, de Reynier noted that this already existed in practice, based not on the United Nations plan but on the positions held by each party on the ground. He urged the ICRC to send the first delegates posthaste, as it would soon no longer be possible to send them to the different areas where they would be stationed, as movements were becoming increasingly difficult. The delegates would also need time to become known by, and win the trust of, the different parties on the ground.\(^{52}\)

Between 14 April and 13 May, eight delegates – including three doctors – and ten nurses were dispatched to Jerusalem and the different parts of Palestine. By 15 May all the staff had taken up their duties. De Reynier assumed the position of head of delegation.

Even before everyone had arrived, de Reynier was assailed by requests from the different parties. He was asked to guarantee the protection of hospitals; to enable the passage of medical convoys; to organize the evacuation of civilians to safer areas; to intervene during clashes to ensure the safety of civilians, wounded, and combatants who wanted to surrender but were caught under enemy fire; and to collect dead or wounded fighters who had fallen between the lines – for which truces had to be arranged between the fighting forces. Despite the inherent dangers, the delegate took on these tasks, although some of them – in particular the removal of wounded and dead from between the lines – went beyond the role of the ICRC. They would normally have been the responsibility of army medical services, but these did not yet exist on either the Arab or Jewish sides.

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\(^{51}\) Letter of 7 April 1948 from the secretary-general of the Arab League to the ICRC – ICRC Archives, B G 59/1/GC, ex-828.

\(^{52}\) Note No. 21 by J. de Reynier dated 2 April 1948 – ICRC Archives, B G 59/1/GC, ex-830.
The protection of hospitals and medical convoys

As the Arabs had only two private hospitals of their own, the ICRC urged the Mandatory Power to hand over most of the government-run hospitals to the Arab municipalities.

Hospitals that were located in dangerous areas and whose staff were threatening to leave were placed under the protection of the ICRC’s flag, as were a number of hospitals belonging to private entities, religious missions and foreign organizations, which wished to hand them over temporarily to the ICRC to guarantee their safety. Under special agreements, administrative, medical and financial responsibility for these facilities was entrusted to the Arab or Jewish medical associations, as appropriate, which undertook to use them in compliance with the provisions of the Geneva Convention on the wounded and sick, with the ICRC acting as guarantor. The ICRC informed the authorities on both sides which establishments it had taken under its protection and requested that they respect them and that they give their formal agreement on these measures.

The ICRC thus handed some ten hospitals – including Jerusalem Government Hospital – to the Palestine Arab Medical Association, with the agreement of the Jewish authorities. It also took under its protection the government laboratory, situated in a Jewish area, which meant it remained accessible to both sides. Two hospitals were also transferred to the Magen David Adom.

Better equipped than the Arabs in terms of medical infrastructure, the Jews were above all interested in the protective value of the emblem, as their main problem was guaranteeing the safety of their convoys. The delegation thus obtained agreement not only from the Arabs of Palestine but also from the Arab League that they would recognize and respect the emblem of the Magen David Adom. On numerous occasions, Jewish ambulances were respected “following ICRC representations”.

Thus, ICRC delegates in the field often stepped in to ensure that the red shield of David was respected, in the immediate interest of the victims. As a matter of principle, though, the ICRC warned against the proliferation of emblems and advised against the adoption of any new exceptional sign at the 1949 Geneva Diplomatic Conference.

Following an Arab attack on a Jewish convoy travelling to Hadassah Hospital on 13 April 1948 – which, with the Hebrew University of Jerusalem on Mount Scopus, formed a large enclave in the Arab zone – de Reynier, contacted by the Jewish Agency, offered to approach both sides to try to prevent such incidents in the future. He recommended that the Jewish Agency not include Magen David Adom ambulances and military vehicles in the same convoy. Clear procedures in this respect would enable him to act more effectively to help protect the Magen David Adom. However, the

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53 Note by de Reynier dated 17 May 1948 – ICRC Archives, B G 59/1/GC, ex-830.
54 See pp. 239 ff. below.
Jews preferred to continue using military escorts to ensure the safety of the hospital and the convoys heading for it.\textsuperscript{55}

On numerous occasions, the delegates stepped in to enable convoys of wounded people or medical supplies to cross the lines. Thus, on 20 April, they helped a Lebanese Red Cross convoy, comprising a medical team, two ambulances and sufficient material to equip a 50-bed hospital, to cross the Jewish lines safely and reach its destination, Acre.\textsuperscript{56}

**Some exemplary operations**

On 27 March 1948, de Reynier received an appeal from the Jewish Agency: a convoy had been ambushed by Arab forces at Nebi Danyal near Bethlehem while attempting to return to Jerusalem after taking supplies to the Jewish settlements of Kfar Etzion. Some 20 wounded had taken refuge in a house at a place called Solomon’s Pools and were now encircled. No Jewish ambulances could reach them, as the area was under Arab control.

The delegate immediately contacted the Arab, Jewish and British authorities in order to organize the steps ahead. The British informed him that fierce fighting was still raging and the road had been mined along a 300-metre stretch and cut by numerous roadblocks. It would be impossible to get through that day.

The following day the delegate drove to the spot with an Arab doctor and ambulance. They arrived amid heavy shooting. In all, around 4,000 Arabs were besieging 200 Jews. The British military had just finished demining the road. During a truce negotiated by the British with the Arabs and the Jews, the delegate took charge of 49 Jewish wounded, who were loaded into ambulances and given first aid by the Arab doctor. He also made sure that 150 Jewish fighters – whose surrender the British were demanding, at the request of the Arabs – were brought to safety after being disarmed. The convoy, led by the Red Cross vehicle, left the scene under a hail of Arab bullets.\textsuperscript{57}

In the evening of 10 April, the Arab Higher Committee appealed to the delegate to do his utmost to save the wounded and bring back the bodies of the victims of Deir Yassin. The Jewish Agency, which he contacted, said it could not help, as the troops responsible for the attack belonged to the *Irgun*, an extremist group over which it had no control. The British authorities confirmed the identity of the troops and said


\textsuperscript{56} Undated document by E. de Bondeli summarizing the different activities of the ICRC delegation in Jerusalem – ICRC Archives, B G 3/82.

they believed the fighting had finished but did not want to intervene. After establishing contact with the *Irgun*, de Reynier travelled to the spot on 11 April with two ambulances, a truck and medical staff from the Magen David Adom. In his report, he described the situation as follows:

more than 200 dead, men, women, and children. About 150 bodies had been removed from the village because of the danger represented by their decomposition. They had been collected, transported some distance and thrown into a large hole (...). There were about 50 bodies in the village. When I asked for the umpteenth time about the wounded, the commander replied coldly: ‘We have not yet cleaned up all the houses in the village, but I can assure you that no living Arabs are left or will be left here.’

The houses I visited were in absolute chaos, everything was broken and there were bodies everywhere. In the third room of a house I thought I saw something move and discovered a girl of around 10 years old, terribly wounded and in a coma, but alive. She had received no care for at least 24 hours, despite the presence in the village of the troop doctor, who was by my side. I had enormous difficulty in overcoming the *Irgun’s* resistance and getting the wounded child into our ambulance by force.\(^{58}\)

After again contacting the Arab Higher Committee to inform it of the situation and ask what measures should be taken for the dead, the delegate obtained agreement from the *Irgun* that they would be given a proper burial and that the few wounded found – three in total – would be handed over to the ICRC. Once back in Jerusalem, he lodged an official oral protest with the Jewish Agency, which said it sincerely regretted what had happened but repeated that it had no power over the *Irgun*.

On the evening of 11 April, Jerusalem radio broadcast a declaration by the Arab Higher Committee, which referred to Reynier’s oral statement and condemned in its own name the acts committed. A statement by the ICRC delegate underscoring the assistance received from the Magen David Adom was also retransmitted\(^{59}\).

At the time, the ICRC did not deem it necessary to share its delegate’s report with the different parties concerned. The Jewish Agency had already said that it could not assume responsibility for the tragic events of Deir Yassin, as it had no authority over the perpetrators. As for the *Irgun*, an official communication from Geneva would be justified only if this group were prepared to commit itself to respecting the Geneva Conventions, as the Jewish Agency and the Arab Higher Committee had done – a commitment that de Reynier was moreover instructed to seek from the *Irgun*. Meanwhile, on the Arab side, the delegate had focused on coming to the aid of any wounded found and ensuring the burial of the dead, rather than recording the tragic reality of what had happened.\(^{60}\)

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\(^{58}\) Note No. 29 by J. de Reynier dated 13 April 1948 – ICRC Archives, B G 59/1/GC, ex-843.

\(^{59}\) Ibid. J. de Reynier also wrote about the Deir Yassin massacre in his book *1948 à Jérusalem, op. cit.*, pp. 53–58.

\(^{60}\) Note No. 42 by the ICRC to J. de Reynier dated 30 April 1948 – ICRC Archives, B G 59/1/GC, ex-843.
On the day after the attack on Jaffa, 29 April, thanks to the delegation’s action, over 30,000 people were able to cross the Jewish lines along a 10-kilometre stretch, without a single shot being fired, and find refuge in the Arab zone.

On 4 May, at the request of the Arab Higher Committee, the delegate Jean Courvoisier obtained guarantees from the Jewish Agency that the bodies of those who had fallen in the Katamon neighbourhood of Jerusalem, where fierce fighting was still under way, could be collected and buried in an Arab cemetery. The operation took place in extremely difficult conditions:

I had only two Jewish drivers, who went to get stretchers, and we started recovering the bodies from the fourth floor of an apartment building. It was no easy task. It was hot and there was a strong smell. One of the drivers became sick and had to stop working. I decided to carry the corpse myself with the second driver (…) In the afternoon we cleaned up the so-called second-line sector and crossed to the first line (…) It was then that I reached a cave that was practically blocked by a huge swarm of flies. I went closer and, to add to our woes, my second driver fell sick.

Inside the cave I saw bodies piled one on top of the other, soldiers, women, and, on the very top, a sheep. (…)

All I could do was drive to the Jewish hospital and seek reinforcements, in particular qualified personnel. I returned one hour later with six stretcher bearers, whom I hoped would be of assistance.

Alas, they in turn became sick and were unusable. The only help I had left was from a brave American journalist, who found a length of electrical wire which we attached to the foot or arm of a body which we thus hoisted out. It was late and night was falling, so I decided to leave the rest of the dead and return to Jerusalem.

The next day, the delegate returned to the spot with a Jewish doctor and 15 men, mainly gravediggers. Despite security guarantees from both sides, they came under Arab fire and had to stop work and hide where they could in shell holes in a nearby field. The delegate, who felt responsible for the lives of the Jews on his team, withdrew with them to the Jewish zone. He then informed the Arab command that he had been unable to complete his task and that he would not try to return to the area but would ask the Jewish authorities to continue burying the bodies he had been unable to collect.61

On 7 May, the ICRC delegates escorted some 170 Egyptian nationals from Jerusalem to the Egyptian border, across battle zones and Arab and Jewish territory, under the protection of the red cross emblem.

At the request of the Jewish Agency, two delegates were present at the surrender of the Jewish settlements of Kfar Etzion on 14 May. In total, more than 350 people – wounded, women, children and men, who were considered to be

61 Note No. 3 by Jean Courvoisier dated 22 May 1948 – ICRC Archives, B G 59/1/GC, ex-832.
28. Palestine War, Jerusalem, 1948. ICRC delegate Jean Courvoisier crossing the line of fire to collect the bodies of fallen combatants in the Katamon neighbourhood.

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prisoners of war – were brought to safety, thus escaping certain death, thanks to the action of the delegates and the Arab Legion. Two days earlier, a nearby settlement had been taken by Palestinian Arab fighters, and all the Jews had been massacred.  

On 12 May, around 3,000 Egyptians boarded a ship at Jaffa, under the watchful eye of the ICRC delegates.

Throughout, de Reynier and his colleagues remained firmly convinced that setting an example was by far the best way to convey the spirit of neutrality guiding the work of the Red Cross on behalf of all victims, the significance of its protective emblem and the need to respect it.

The establishment of safety zones

Impelled by the events, de Reynier started to set up “neutral safety zones under the ICRC flag”, as and where the need arose, in order to save the lives of non-combatants. The situation was getting more and more dangerous by the day, with little prospect of a peaceful solution. As a result, the parties involved and the population placed ever greater expectations on the ICRC, seeing it as one of the last bastions of hope. From mid-April 1948, de Reynier was thus offered the use of all the main buildings, both official and private, for whatever purpose the ICRC deemed most appropriate.

As Jerusalem, with its 150,000 inhabitants, seemed most seriously threatened, the delegate focused on setting up safety zones there. For this he selected large buildings with grounds where several thousand refugees could assemble in the open. Three such zones were planned:

- Zone I, at the heart of Jerusalem’s new city but close to and overlooking the old city. It comprised the buildings and grounds of the King David Hotel – partially occupied by the British administration – the Young Men's Christian Association (YMCA) Hostel and the Terra Sancta convent.

- Zone II, situated on a hill three kilometres south of the city, comprising Government House (the headquarters of the Mandatory administration) and, in its grounds, the Arab College, the Jewish Agricultural School and the Allenby Barracks’ married quarters.

- Zone III, to the north of the city, with the buildings and grounds of the Italian Hospital and the Italian School on Abyssinian Street.

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63 Note by de Reynier dated 17 May 1948, cited above.

The organization of these zones, in an atmosphere of near panic, posed serious logistical and security problems. But de Reynier was driven by the idea that this was the only way to save lives and so he had to give it a try.\footnote{Notes No. 35 of 25 April and No. 37 of 28 April 1948 by J. de Reynier to the ICRC – ICRC Archives, B G 59/1/GC, ex-830, and B CR 201-10.}

The ICRC’s headquarters in Geneva agreed to the principle of setting up such safety zones and furnished the delegation with the sum of 200,000 Swiss francs so that it could get to work.\footnote{Minutes of the meeting of the Bureau held on 28 April 1948 – ICRC Archives, A PV.}

Meanwhile, during the preparatory work for revising the Geneva Conventions,\footnote{Already between the two world wars, the ICRC had conducted legal studies and convened committees of experts on the matter of hospital and safety zones intended to protect non-combatants from the effects of war. Before the Second World War, safety zones were created on two occasions: in Shanghai in 1937 (by Father Jacquinot de Besange, without ICRC involvement) and in Madrid in 1936, during the Spanish Civil War (on General Franco’s initiative, with ICRC support). During the Second World War, the ICRC’s attempts to set up safety zones and localities had remained in vain, but this did not prevent it from resuming work on the question after the end of the war. \textit{Rapport relatif aux localités et zones sanitaires et de sécurité}, extract from the \textit{RJCR}, No. 329, May 1946. See also \textit{Zones sanitaires et zones de sécurité}, extract from the \textit{RJCR}, No. 390, June, and No. 392, August 1951, by André Durand.}

the ICRC had included in the new draft convention on civilians an article on the establishment of such zones, according to which:

In time of peace, the Contracting States and, in the case of conflict, the Parties to the conflict, shall endeavour to establish in their territory and, if need be, in occupied territories, hospital and safety zones and localities so organized as to protect from the effects of war, the wounded and sick, children under 15, pregnant women, the mothers of children under seven, persons over 65, and personnel entrusted with the organization and administration of these zones and localities and with the care of the persons assembled there.

Upon the outbreak and during the course of hostilities, the Parties concerned shall agree on the mutual recognition of the zones and localities they have established 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 in order to facilitate the institution and recognition of these hospital and safety zones and localities.\footnote{Annex to the note by Dr Marti on the safety zones, dated 10 May 1948 – ICRC Archives, B G 59/1/GC, ex-827.}

The draft convention was due to be submitted at the 17th International Conference of the Red Cross (Stockholm, August 1948). The establishment of safety zones in Palestine would therefore constitute an important precedent, even if they did not correspond entirely to the conditions envisaged in the draft article.
From the second half of April, de Reynier negotiated the status of the safety zones with all the parties concerned: the Mandatory government, the Arab and Jewish authorities, the United Nations representative and the legal owners of the buildings. The different premises were entrusted to the ICRC, as usufructuary, by their owners, with their equipment and, as regards the YMCA Hostel and the King David Hotel, some of their staff (who remained on the owners' payroll). As for Government House, it was agreed that the ICRC would hand the building over only to the legally constituted government that succeeded the Mandatory government and at the latter's express request, after prior agreement by the Arab and Jewish authorities. As for the King David Hotel, the Mandatory government specified that the ICRC delegation should enjoy all the rights – which were due to expire in July 1948 – that the British authorities had over this building. It was nonetheless agreed orally, and in a gentleman's agreement on 17 April between Pablo de Azcárate, representing the United Nations Palestine Commission, and the ICRC head of delegation, that: 1) regarding the King David Hotel, the ICRC would afford all necessary facilities for placing the building at the disposal of the United Nations as soon as the latter so wished; and 2) Government House would be handed over to the United Nations as soon as it requested it.

The management of the YMCA building planned to hand it over to the ICRC on 10 May. It therefore requested all its guests to leave by that date, including four consuls and their families. As the consuls protested, it was agreed they could stay on in a private capacity with their families, as long as they did not perform their consular duties. The same possibility was later offered to the UN representative, de Azcárate.

On 13 May, de Reynier sent a note to the civil and military authorities in Palestine informing them that the three safety zones had been set up and would henceforth be under Red Cross protection. The local Arab authorities had already given the ICRC head of delegation their formal agreement on 9 May, and the Israelis followed suit on 17 May.

Meanwhile, a combination of factors – the general anxiety about the fate of the Holy City, the fact that no international peacekeeping force was planned to guarantee its safety after the British had left, the impasse in reaching a settlement under the

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71 Note No. 36 by J. de Reynier and its annexes, dated 26 April 1948 – ICRC Archives, B G 59/1/GC, ex-843. Minutes of the meeting of the Bureau held on 28 April 1948 – ICRC Archives, A PV.
auspices of the United Nations Truce Commission and the general confidence shown in the ICRC’s representatives – prompted de Reynier to offer his services as an intermediary for a much more ambitious plan: the complete neutralization of Jerusalem, which would be considered, in its entirety, as a safety zone and placed under the protection of the ICRC flag. Given the large number of lives at stake and the threat to the Holy Places, he believed that the ICRC delegation was duty bound to provide both the Jewish and Arab sides with an honourable means, for purely moral reasons, to avoid the battle for Jerusalem.74

Because of a journalist’s indiscretion, however, the plan became public before the delegate had managed to inform the ICRC’s decision-makers in Geneva. They regretted being presented with a fait accompli, given the global significance of the problem and the new responsibilities such a role would entail. They made it clear that the ICRC could not take on the task of administering a city like Jerusalem or of guaranteeing its safety. However, they did not want to disavow their delegate and instructed him to focus on facilitating the conclusion of an agreement between the Arabs and Jews, since the Jerusalem zone was administered by both parties, who would be responsible for implementing its provisions. The ICRC’s function would be limited to monitoring implementation, to the extent possible, and providing any necessary assistance. In other words, the ICRC was above all to provide moral protection. Dr Marti was dispatched to Jerusalem to explain the headquarters’ point of view to the head of delegation.75

On 9 May, the plan to neutralize Jerusalem looked set to succeed. King Abdullah of Transjordan, the secretary-general of the Arab League, the Grand Mufti, the Jewish authorities, the Haganah, the Irgun, the Lehi, the Arab Red Cross and Red Crescent medical associations, the Magen David Adom, the Mandatory government, the local UN representative and the Truce Commission had all expressed their support in principle for the plan.76 Thus, on 10 May, the delegation, with the accord of the British authorities and UN representatives, held a press conference and made radio statements officially announcing the plan for Jerusalem and the procedures for its implementation. These included, as preliminary steps, the formal, written


agreement of the civil and military authorities on both sides and a total truce of 24 hours to serve as a test.\textsuperscript{77}

The following day, the ICRC issued a press release summarizing the steps taken so far and underscoring the two main conditions for implementing the plan:

All troops shall be withdrawn from the city which will then be an entirely ‘open town’. Food supplies shall be carried to the population by motor convoys which shall be afforded unhindered passage through the fighting lines.

The parties concerned shall entrust the International Committee of the Red Cross delegation with the control of the protective measures insofar as circumstances allow.\textsuperscript{78}

The appeal for aid

Having thus prepared the ground for carrying out its customary activities and put the staff in place, the ICRC could now turn its attention to organizing material assistance for the victims. A number of unsolicited donations had already arrived, in particular a large consignment of medical material from the American Red Cross.

On 12 May 1948, the ICRC sent an appeal for aid to a dozen National Red Cross Societies and a similar number of charitable associations. It asked mainly for medical supplies and equipment and food, intended for hospitals, the safety zones, the wounded and sick in general and prisoners of war. Cash donations were also requested to help cover the safety zones’ running costs. The ICRC asked the donors to let it distribute the relief based solely on the urgency of the needs, in accordance with the spirit of impartiality central to the work of the Red Cross. If donations were to be earmarked for a specific purpose, the ICRC requested that a 25 per cent share be left to its discretion to allocate as it deemed best. The overriding goal was to be able to help all victims on an equal basis.\textsuperscript{79}


The Arab-Israeli War

The battle for Jerusalem

A preliminary local truce, proposed by the United Nations Truce Commission, was observed on 12 and 13 May 1948. However, the sudden departure of the British from Jerusalem on the morning of 14 May left an unexpected vacuum, which prompted the different forces present to go on the offensive. Jewish troops quickly occupied the new city before the Arab Legion arrived on the scene.

The ICRC's head of delegation, de Reynier, stepped up his efforts to bring about a ceasefire and implement the plan for neutralizing Jerusalem. From the evening of 14 May until the morning of 16 May, Arab Legion and Haganah forces actually observed a ceasefire, but fighting continued between Jewish and Arab extremist groups in the northern part of the city. By 16 May, Jerusalem resembled a vast battlefield. At the heart of the old city, the Jewish quarter was completely besieged by the Arabs.

De Reynier attributed the failure to neutralize Jerusalem to the fact that he alone knew that the British intended to withdraw on the morning of 14 May, instead of the evening of 15 May or the morning of 16 May. As a result, the different authorities involved, in particular the Truce Commission and the UN representative, although in favour of the ICRC's initiative in principle, were still working on their own plans up to 14 and 15 May, one day too late; and, similarly, the Arab and Jewish authorities did not take a stand in time. De Reynier also regretted the lack of a strong representative when dealing with the Arab authorities, with whom he could communicate only through the intermediary of the Arab Higher Committee in Jerusalem, which was too weak to impose its will on Cairo, Damascus and Amman.

According to Dr Marti, who was dispatched to Jerusalem to support the head of delegation, the latter, in his desire to see the ICRC’s plan succeed, had thought that all the authorities had agreed to accept it, whereas they had actually only agreed to examine it. The Jewish authorities, in particular, felt that the moral force of the ICRC would not be sufficient to enforce a long-term ceasefire and that they should instead rely on a body such as the United Nations, which was capable of applying sanctions.

From the start of the battle, the delegation was cut off from its delegates and nurses stationed outside Jerusalem in the areas of former Mandatory Palestine under Arab control (hereafter Arab Palestine) and within the territory of the new State of Israel.

81 Monthly report No. 3 by J. de Reynier for May 1948. Note by J. de Reynier dated 8 June 1948 "Introduction to the question of placing all Jerusalem under the ICRC flag" – ICRC Archives, B G 59/1/GC, ex-830 and ex-843.
82 Minutes of the extraordinary meeting of the Bureau held on 8 June 1948 – ICRC Archives, A PV. On this whole question, see note by P. Gaillard dated 9 June 1948, which includes in its annexes all documents relating to the neutralization of Jerusalem under ICRC flag – ICRC Archives, B G 59/1/GC, ex-843.
With no links to the outside world, it could only contact ICRC headquarters in Geneva using the special marine radio provided by the United States Consulate General.\(^{83}\)

The fierce fighting, the patchwork of positions and the presence of extremist groups among the fighters made it extremely difficult for the delegation to carry out its work. It strove to ensure respect for and to enable the re-supplying of the safety zones and hospitals under the ICRC flag, by placing delegates on the premises or conducting daily visits. Because no ICRC representative was present, safety zone III, comprising the Italian school and hospital, was occupied by Israeli forces on 15 May, at a time when there were no refugees there. The ICRC shut down the zone on 28 May, as it was no longer able to guarantee its protection.\(^{84}\) The other two safety zones, meanwhile, were maintained throughout the whole battle for Jerusalem. Proposals to establish more such zones in the old city, on both the Jewish and Arab sides, were rejected by the Arabs.\(^{85}\) They nonetheless agreed that the Hadassah hospital and the Hebrew University of Jerusalem on Mount Scopus should be placed under the protection of the ICRC flag; however the Israelis persisted in wanting to defend these buildings with their troops.\(^{86}\)

The delegates were overwhelmed by requests of all kinds. They crossed the lines daily to collect Arab and Jewish dead and bury them, transport the wounded and sick to hospitals, transfer civilians caught under fire to safer areas and organize exchanges of woman and children. ICRC vehicles covered hundreds of kilometres and were soon riddled with bullet holes. Cases of disrespect for the emblem increased by the day. All the hospitals near the front line came under fire, and some were occupied by fighters at least temporarily. An ICRC delegate and a driver were wounded, while a third staff member was roughed up. Another delegate, Dr Otto Lehner, who had ventured into the old city for a few hours, was stuck there for two whole weeks with just what he had on him. The corner room he ended up staying in was criss-crossed by bullets. By 25 May, the delegates were in a state of exhaustion, exacerbated by the lack of water, electricity and food that was crippling the population as a whole, and contacts with Geneva were increasingly sporadic. The more acts of bravery they committed the less they had to show for it, de Reynier concluded. The decision-makers were no longer in Jerusalem but in Tel Aviv and the Arab capitals.\(^{87}\)

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83 Monthly report No. 3 by Reynier for May 1948, cited above.
84 General activities report of the ICRC delegation for Palestine, January 1948 to July 1949, signed by J. de Reynier and dated 6 July 1949. Note by de Reynier to the civil and military authorities in Palestine concerning safety zone III, dated 27 May 1948 – ICRC Archives, B G 59/1/GC, ex-830 and ex-843.
85 Telegram by J. de Reynier, transmitted to the ICRC by the US Consulate in Geneva on 19 May 1948 – ICRC Archives, B G 59/1/GC, ex-830.
86 Telegram of 6 June 1948 from President P. Ruegger to the ICRC – ICRC Archives, B G 59/1/GC, ex-835.
87 Telegram of 14 June 1948 from the Jerusalem delegation via the US Consulate – ICRC Archives, B G 59/1/GC, ex-843.
The internationalization of the conflict: appeals to apply the Geneva Conventions and offers of ICRC services

The proclamation of the State of Israel on 14 May 1948 triggered the entry into the war of Egypt, Iraq, Lebanon, Syria, Transjordan and Saudi Arabia.

On 20 May, the ICRC telegraphed an appeal to the governments of all the warring countries — that is, the six above Arab governments and the provisional Israeli government — exhorting them to respect the safety zones in order to save the greatest possible number of human lives. The appeal was also sent, for information, to the League of Arab States, the Arab Higher Committee, the United Nations, Count Bernadotte (the UN mediator for Palestine and chairman of the Standing Commission of the International Conference of the Red Cross) and the president of the League of Red Cross Societies.89

With the internationalization of the conflict, the ICRC decided also to offer its services to all the belligerents,90 which it did by telegram on 24 May. It stressed its readiness to act as a neutral intermediary through traditional Red Cross activities and drew their attention to the services of the Central Prisoners of War Agency, responsible for collecting all information about such prisoners and, by extension, civilian internees, and forwarding it to the relevant authorities, in accordance with Article 79 of the Convention of 27 July 1929 relative to the Treatment of Prisoners of War.91

At the time, only Egypt and Iraq were party to the two Geneva Conventions of 1929, concerning the wounded and sick and prisoners of war respectively. Lebanon and Syria had acceded to the Convention on wounded and sick only.92 The ICRC asked the non-party governments nonetheless to apply the basic principles of these Conventions. In its message to the Arab governments, it also explained that it had asked the Jewish authorities of Palestine to confirm that their commitment of 4 April extended to Arab prisoners of all nationalities.

The ICRC received positive replies to its two communications from the provisional government of the State of Israel, which confirmed its intention to respect the safety zones scrupulously and to “observe very strictly all [the] provisions of the Geneva Conventions regarding prisoners of war and civilian detainees”.93

The ICRC obtained similar guarantees from the Arab States,94 after clearing up certain misunderstandings with Lebanon and Iraq.

90 Minutes of the meeting of the Bureau held on 19 May 1948 – ICRC Archives, A PV.
91 ICRC Archives, B G 59/1/GC, ex-828.
92 Israel acceded to the two 1929 Geneva Conventions on 3 August 1948; Transjordan acceded to the Convention on wounded and sick on 20 November 1948 and the one on prisoners of war on 3 May 1949.
93 Telegrams of 25 and 27 May from the Israeli minister of foreign affairs to the ICRC – ICRC Archives, B G 59/1/GC, ex-837 and ex-828.
94 Telegrams of 25 May, 26 May and 14 June 1948 from the Lebanese Ministry of Foreign Affairs; telegrams of 27 May from the Syrian Ministry of Foreign Affairs and of 29 May 1948 from the
Initially, Lebanon had responded positively to the ICRC’s two telegrams. However, after learning that the Jewish authorities had confirmed their commitments, it informed the ICRC that, if accession “by the Zionist authorities to the basic principles of the Geneva Convention” meant accession by the “so-called State of Israel to the organization of the Red Cross”, then the Lebanese government, and probably the other Arab States, would be obliged to reconsider their membership of this organization. A similar protest reached the ICRC from Iraq.95

The ICRC immediately sent a representative to the Lebanese and Iraqi missions in Bern to explain the different procedures governing membership of the International Red Cross and accession to the Geneva Conventions and to underscore the completely objective nature of the organization’s efforts to ensure the application of the Conventions. The ICRC’s president, Paul Ruegger, also raised the matter with the Egyptian authorities and the secretary-general of the Arab League during his visit to Cairo at the beginning of June (see below). The ICRC thus made clear to all that: (1) accession *stricto jure* by a State to the Geneva Conventions did not depend on the ICRC but on the Swiss government alone, as laid out in the final provisions of the Conventions; (2) according to established practice, the ICRC never undertook the official recognition of a Red Cross or Red Crescent Society while hostilities were under way in the territory where that Society was active; and (3) as the guardian of the Conventions, and in the interests in particular of the Arab prisoners and population under the control of the Jewish authorities, the ICRC had limited itself to ensuring that Israel applied the basic principles *de facto*. After receiving these clarifications from the ICRC president, the Egyptian authorities promised their support in convincing the Lebanese and Iraqi governments, to whom the ICRC sent two further explanatory telegrams.96

On 26 May, in response to the ICRC’s communication of 20 May regarding the safety zones, the Arab League – after first denouncing “Zionist terrorism” – reiterated its intention, and that of the Arab States, to respect the Geneva Conventions, as long as the other side reciprocated.97

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95 Telegrams of 29 May 1948 from the Lebanese foreign minister and of 1 June 1948 from the Iraqi foreign minister to the ICRC – ICRC Archives, B G 59/1/GC, ex-837. Minutes of the meeting held on 2 June 1948 – ICRC Archives, B G 59/1/GC, ex-829.

96 Telegrams of 29 May 1948 from the Lebanese foreign minister and of 1 June 1948 from the Iraqi foreign minister to the ICRC – ICRC Archives, B G 59/1/GC, ex-837. Minutes of the meeting held on 2 June 1948 – ICRC Archives, A PV. Minutes of the two meetings held on 2 June 1948 with the Lebanese minister and the Iraqi chargé d’affaires in Bern. Telegrams of 11 June 1948 from the ICRC to the Lebanese and Iraqi foreign ministers – ICRC Archives, B G 59/1/GC, ex-837.

97 Telegram of 26 May 1948 from the Arab League secretary-general to the ICRC – ICRC Archives, B G 59/1/GC, ex-828.
Arrival of Count Bernadotte on the scene and the ICRC president’s trip to the Middle East

On 24 May 1948, the ICRC agreed to the proposal of its new president, Paul Ruegger,\textsuperscript{98} to travel to Jerusalem as soon as possible to see the delegation’s working conditions for himself. He was alarmed by the dangerous predicaments the delegates had found themselves in, both in Jerusalem and in the Tel Aviv area, where a nurse, Florence Cousin, had been seriously injured in the head while attempting to exchange two Arab prisoners for wounded Israeli children across the front lines.\textsuperscript{99} The ICRC had learned of these incidents through the press, as no news from the delegation was getting through.

But there was a second reason why the ICRC president was in a hurry to travel to Jerusalem, and this was the appointment of Count Bernadotte as United Nations mediator in Palestine on 20 May.

The ICRC had learned from the press that Count Bernadotte planned to travel to the Middle East wearing his Red Cross uniform in order to stress the humanitarian nature of his visit and his role as an objective and neutral mediator in the conflict.\textsuperscript{100} The ICRC president feared that this approach would cause great confusion between the United Nations mediator’s political mission and the strictly humanitarian role of the ICRC, to the detriment of the latter, which must remain outside all political debate. Indeed, the United Nations, which had adopted the partition plan, was not seen as neutral in the eyes of the Arabs, hence the ICRC’s wish to distance itself from it. But the ICRC president was also worried that, were Count Bernadotte to fail in his political mission – and given that he was still the president of the Swedish Red Cross and chairman of the Standing Committee – he would try to carve out a humanitarian role for himself and quite possibly assign tasks to Red Cross components other than the ICRC. The hard work of its delegates on the ground would then have been in vain. By travelling to the field before the mediator, the ICRC president sought, as one of his colleagues put it, “to occupy the Red Cross square of the chessboard ahead of Count Bernadotte”.\textsuperscript{101}

After stopovers in Cairo and Amman, the ICRC president arrived in Jerusalem on 27 May. He spent his first day meeting all the delegates and visiting the Austrian hospital, where Dr Lehner, the ICRC delegate on the Arab side, was working, Government House, in safety zone II, and the YMCA Hostel, where the ICRC delegation was based, in safety zone I.

\textsuperscript{98} Paul Ruegger took office as president of the ICRC in early May 1948.
\textsuperscript{99} Report No. 3 of 2 June 1948 by R. Gouy, delegate in Tel Aviv – ICRC Archives, B G 59/1/GC, ex-829.
\textsuperscript{100} Folke Bernadotte, \textit{To Jerusalem}, \textit{op. cit.}, p. 17. On this subject see also Kati Marton, \textit{A Death in Jerusalem}, \textit{op. cit.}, pp. 122 and 143. Bernadotte stopped wearing his Red Cross uniform at the end of June, deeming that the humanitarian part of his mandate had been achieved and that the negotiations had reached a more political stage.
\textsuperscript{101} Minutes of the extraordinary meeting of the Bureau held on 24 May 1948 – ICRC Archives, A PV.
The following day, the president gave a press conference in the new city, on the Israeli side, and issued a statement that was broadcast at the same time on the Arab side. He explained that the purpose of his visit was to see the delegates’ working conditions for himself, expressed the full support and gratitude of the ICRC in Geneva for their work and stressed the urgent need for all sides to respect the red cross emblem at all times.\footnote{102}

Also on 28 May, the Israeli forces that were encircled in the old city’s Jewish quarter surrendered to the Arab Legion. That evening the delegation organized the evacuation of 2,000 Jewish women, children and elderly people through the Zion Gate to the new city. The operation was the fruit of several days of negotiations with both parties, held with the president’s support. As reported by de Reynier, the guns fell silent when the ICRC president, leading the way, raised a huge Red Cross flag. He did not leave his post until the last person had passed through the city gates.\footnote{103}

Then, on 29 May, the Arab Legion – acting on its own initiative and demonstrating its willingness to act in the spirit of the Red Cross – handed over to the ICRC some 140 Jewish wounded who had been gathered together and brought to safety in an Arab school in the old city, for transfer to the Israeli side.\footnote{104}

These two operations, carried out unilaterally by the Arab Legion, were followed, as a corollary and at the ICRC delegation’s suggestion, by the evacuation to the Arab old city of 150 Arab civilians, women, children, elderly people and seriously wounded who had fallen into Israeli hands. Their transfer, in three successive operations, was completed by 8 June.\footnote{105}

Before leaving Jerusalem, President Ruegger discussed a number of organizational measures with the delegation. These were aimed at refocusing its mission on the ICRC’s customary activities – and thereby limiting the risks facing the delegates – and adapting to the new political and military situation. Since Jerusalem was no longer at the centre of political decision-making, only those delegates and nurses necessary for running the safety zones would remain there. Instead, two regional delegations

\footnote{102 Statement made by Mr Paul Ruegger President of the International Red Cross Committee, undated – ICRC Archives, B G 59/1/GC, ex-835. English Supplement, RICR, Vol. I, No. 6, June 1948, p. 106.}

\footnote{103 Message of 29 May by J. de Reynier, retransmitted by radiogram by the Cairo delegation to the ICRC on 31 May 1948. Monthly report by J. de Reynier for May 1948 and General report by de Reynier, both cited above – ICRC Archives, B G 59/1/GC, ex-830. Report No. 5 of 7 June 1948 by J. Courvoisier – ICRC Archives, B G 59/1/GC, ex-832. Minutes of the extraordinary meeting of the Bureau held on 8 June 1948 – ICRC Archives, A PV. The International Committee of the Red Cross in Palestine, op. cit., p. 11.}

\footnote{104 Message of 31 May 1948 by President Paul Ruegger to the ICRC via the US Consulate – ICRC Archives, B G 59/1/GC, ex-835. Letter of 29 May 1948 by de Reynier to the Jewish civil and military authorities c/o Jewish Agency, Jerusalem – ICRC Archives, B G 59/1/GC, ex-830.}

would be set up, one in Amman on the Arab side, and the other in Tel Aviv on the Israeli side. They would be responsible for the delegates and nurses working in Arab Palestine and Israel respectively. The head of delegation for Palestine, de Reynier, would be based alternately in Amman and Tel Aviv and would coordinate the activities of the regional delegations, maintain contacts with the States party to the conflict and ensure links with Geneva. A permanent office was also to be opened in Beirut to serve as a secretariat and as a centre for receiving and distributing relief.\footnote{Undated note by de Reynier concerning the reorganization of the Palestine delegation, approved and signed in Jerusalem on 31 May 1948 by President Ruegger – ICRC Archives, B G 59/1/GC, ex-835. Note of 5 June 1948 by de Reynier to the civil and military authorities in Palestine – ICRC Archives, B G 59/1/GC, ex-830. Minutes of the extraordinary meeting of the Bureau held on 8 June 1948 – ICRC Archives, A PV. English Supplement, RICR, Vol. I, No. 6, June 1948, p. 108. The International Committee of the Red Cross in Palestine, \textit{op. cit.}, pp. 13–14.}

As for the second aim of his trip, President Ruegger strove, in the different discussions held and statements made in Cairo, Amman, Jerusalem and then again in Cairo, to drive home the difference between the Red Cross and the United Nations. For his fears were confirmed: when he got to Cairo, the UN mediator had not yet arrived, and the greatest confusion reigned. “The president of the International Red Cross, Count Bernadotte” was awaited. And when Ruegger reached Jerusalem, the consul of a major power telegraphed to say that Count Bernadotte must have arrived, since the president of the International Red Cross had been seen in the old city. Adding to the confusion, the aeroplane chartered for the UN mediator, pictures of which could be seen everywhere, had been painted white with red crosses next to the words “United Nations”. This use of the sign constituted a violation of Article 18 of the Geneva Convention of 1929 on the wounded and sick, which regulates the use of medical aircraft very strictly. It was likely to weaken the protective value of the red cross emblem.\footnote{Minutes of the extraordinary meeting of the Bureau held on 8 June 1948 – ICRC Archives, A PV. ICRC delegation to the Stockholm Conference. Report on the 5th session, 20 July 1948 – ICRC Archives, B CRI 25. At the time, the ICRC’s use of the red cross emblem on its flag had no international legal basis. It nonetheless believed that this practice – to ensure the safety of its boats, trucks or, in this case, the safety zones – and which no one had ever contested, in particular during the Second World War, could be justified as follows: it had always done it with the formal consent of all belligerents in order to help victims of war, often in emergency situations, in accordance with the Geneva Conventions or the spirit of the Conventions. The 1949 Geneva Conventions enshrined the ICRC’s right to use the red cross sign at all times.}

The ICRC president had hoped to meet Count Bernadotte after he arrived in Jerusalem on 31 May but only managed to see him in Cairo on 2 June, on the trip home. During that meeting, the president conveyed his concern regarding the risk of confusion between the political sphere and the strictly humanitarian role of the Red Cross and handed over a letter laying out the ICRC’s position, in particular regarding the safety zones, which read: “the clauses governing the safety zones being, by their very essence, limited to a humanitarian purpose in the strictest sense of the word, you will no doubt agree with me that the high task of pacification assigned to you,
and which involves such vast political powers and even sanctions, shall be exercised, in our mutual interest, under different auspices than the ICRC ‘Zones’ – with the understanding that, if the parties so wish and agree, a particular ICRC Zone could, if necessary, be restricted.” These reservations were also dictated by the dangers posed to the delegates by the juxtaposition of the signs of the red cross and the United Nations, given the opposition to this organization in some circles.

On its president’s return, the ICRC decided to give wide publicity to its work in the Middle East, in particular in view of the forthcoming 17th International Conference of the Red Cross, which was to be held in Stockholm from 20 to 30 August 1948, under the chairmanship of Count Bernadotte. It therefore published, in July, a 23-page booklet entitled *The International Red Cross in Palestine*, illustrated with some photographs. The ICRC was also prepared to raise the matter of the red cross emblem on the mediator’s aeroplane again, which it did during a meeting in Stockholm between President Ruegger and Count Bernadotte.\(^\text{109}\)

**Evolution of the ICRC set-up until the end of the conflict**

The United Nations mediator managed to negotiate a one-month truce between the two parties to the conflict, starting on 11 June 1948.

The ICRC head of delegation used the opportunity to start implementing the reorganization plan agreed on with the president. Regional delegations were opened in Amman and Tel Aviv, and some delegates and nurses were redeployed to Ramallah and Gaza in Arab Palestine and to Haifa on the Israeli side. They set about carrying out the ICRC’s traditional work of providing humanitarian protection and assistance to military and civilian victims of the conflict and organizing the services of the Central Prisoners of War Agency.

Working conditions for the delegates nonetheless remained difficult.

As a number of problems needed to be resolved with the UN mediator, the head of delegation was retained in Jerusalem longer than planned. These concerned, in particular, the safety zones and the re-supplying of Jerusalem.\(^\text{110}\) Moreover, Count Bernadotte’s use of the red cross sign practically invalidated months of awareness-raising by the delegation as to the neutral and apolitical character of the Red Cross and the use of the emblem for strictly humanitarian purposes. Whereas the delegates had refused all armed escort from the start, despite the risks this entailed, and had instructed everyone to respect the personnel, vehicles and facilities of the

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\(^{108}\) Letter of 31 May 1948 from the ICRC president to Count Bernadotte – ICRC Archives, B G 59/I/ GC, ex835.


\(^{110}\) See pp. 440 and 452 below.
Red Cross, Red Crescent and Magen David Adom because they were unarmed, the Count’s aeroplane, and some of his trips to the field, were under military protection. The confusion caused by the mediator between the United Nations and the Red Cross and the hostility towards the former within certain Arab and Jewish circles posed a real threat to the delegates’ safety.\footnote{Report of 26 July 1948 by P. Gaillard on the impact of Count Bernadotte’s visit on the ICRC’s work in Palestine. Summary of the meeting between the Israeli prime minister and J. de Reynier, written by P. Gaillard on 1 October 1948. General report by de Reynier, cited above. Summary of the situation in Palestine, presented by de Reynier to the ICRC delegation in Stockholm on 21 August 1948 – ICRC Archives, B G 59/1/GC, ex-829 and ex-830.}

One of the delegates was caught up in the tragic events that led to the death of Count Bernadotte. On 17 September 1948, shortly before he was assassinated, Count Bernadotte had had a meeting with the ICRC medical delegate, Dr Pierre Fasel, at Government House. The Count then invited the delegate to accompany him to the YMCA Hostel to continue the discussion. They left safety zone II in the late afternoon in a convoy of three cars. Dr Fasel was alone at the wheel of the second car, while the first and the third, which Count Bernadotte was riding in, were occupied by United Nations officials. When they reached the outskirts of the Katamon and Talbieh neighbourhoods, the three vehicles fell into an ambush. For about a minute, one of the attackers inspected them one by one, before shooting Count Bernadotte at point-blank range, at the same time killing a French Colonel, André Serot, who was sitting beside him. The perpetrators – later identified as belonging to the Lebi – fled in a jeep, shooting as they went, while Count Bernadotte and Colonel Serot were rushed to the nearest hospital, where their deaths were confirmed. As soon as they learned what had happened, the members of the ICRC delegation offered their services and helped arrange transport and repatriation of the Count’s body.\footnote{Statement by Dr Pierre Fasel to the Israeli civil police, 19 September 1948 – ICRC Archives, A CL 05.09. English Supplement, RICR, Vol. I, No. 11, November 1948, p. 186. See also: Cablegram dated 27 September 1948 from Ralph Bunche: to the Secretary-General transmitting report regarding the assassination of the United Nations Mediator, United Nations Security Council document, S/1018 28 September 1948.}

The resumption of fighting gave rise to a host of further problems.

During the breach in the truce from 8 to 17 July, ICRC delegates and nurses again came under fire. They nonetheless pursued their work, for instance in Jerusalem, where the hospitals and Government House continued to receive daily supplies of food and medicines.

The delegates continued to be called upon to carry out urgent rescue operations, during which new security incidents occurred.\footnote{General report by de Reynier, cited above. Monthly report No. 5 by de Reynier for July 1948 – ICRC Archives, B G 59/1/GC, ex-830.}

On 17 July, just as the fighting in Jerusalem had stopped under the second truce, a delegate, André Durand, was shot and seriously wounded while trying to reach wounded fighters who had fallen in a minefield between the lines, at the request of
their comrades from the Arab Legion. On 30 August, Dr Fasel, who had offered to help organize the evacuation of civilians from three Arab villages encircled by Israeli forces, drove over a landmine while crossing the lines. The vehicle was destroyed, but, miraculously, the occupants emerged unscathed.

In order to reduce the risks faced by ICRC staff, in August de Reynier issued instructions to all delegates regarding exchange and repatriation operations and the delivery of aid across the lines. He also informed all the civil and military authorities concerned. In line with usual ICRC practice, the delegates would henceforth no longer cross the lines. The delegation would limit itself to fulfilling its traditional role as an intermediary between the two conflict parties and organizing crossings in agreement with the parties and according to a set procedure. Thus, “two delegates, one on each side, will supervise and control the operation but will on no account go further than the first military post of the armed forces with whom they are in contact. The passage through the lines will take place under the escort of military medical personnel, under the supervision of the Committee’s delegate carrying a Red Cross flag.” Regular crossing points were furthermore established in agreement with the authorities.

The reorganization of the delegation was not complete until September 1948, when a central secretariat was opened in Beirut. The delegation’s activities at the time were broken down as follows: 30% for prisoners of war, 30% for tracing services, hospitals and relief, and 40% for Arab refugees forced to leave their homes because of the fighting.

Indeed, the plight of the refugees was becoming the most acute problem from a humanitarian perspective. It was to lead to the setting up of the ICRC Commissariat for Relief to Palestine Refugees, in December 1948, within the framework of the United Nations Relief for Palestine Refugees (UNRPR). From then on, two ICRC missions co-existed in the Middle East: the delegation, carrying out the organization’s traditional tasks stemming from the Geneva Conventions and their application, and the Commissariat, responsible for distributing relief provided by the United Nations to the refugees.

From August 1948, the delegation’s work corresponded increasingly to the traditional role of the ICRC – of relieving the plight of war victims behind the lines – except in the Gaza sector. During the two Israeli offensives in the Negev,
in October and December 1948, ICRC staff found themselves on the front line, as reported by the delegate in charge of the sector, Dr Raul Pfimlin:

Thursday 21 October. We had just bedded down on our two mattresses when we heard planes overhead and the bombing started. It lasted all night until 6 am. Around a hundred 100-kilogram bombs were dropped from Jewish four-engined aircraft. At 5 am one of these small gifts fell in front of the house and on the road. Almost all our windows were shattered and several doors were blown off (...) Once calm had returned, we started to sweep the house, as there was broken glass everywhere. (...) In the morning we went to work as usual.119

After this, the Gaza delegation, which covered Bethlehem, Hebron and Beersheba, was cut off from these three towns, as Beersheba had fallen to the Israelis. From then on Bethlehem and Hebron were covered by the delegate in charge of the Ramallah sector.

From 9 February to 8 March 1949, the ICRC president made a second trip to the Middle East, to visit the different ICRC delegations and the Commissariat and to meet with government authorities and National Red Cross and Red Crescent Societies.120

During his visit to Israel in mid-February, it was formally agreed that the ICRC delegation in Tel Aviv, which had until then been a regional delegation dependent on the general delegation for Palestine, should have completely independent status. This decision came at a time when the State of Israel had been recognized by most of the major powers and European States, and the first session of the Israeli government, formed following the general elections in early February, was under way.121 It should be noted that, as soon as it had learned of it, the Israeli government had formally protested against the establishment of the central office of the Palestine delegation in Beirut, the capital of a country at war with Israel. It had then proposed as an alternative the island of Cyprus, on neutral territory. The ICRC had explained that Beirut was not the headquarters of the delegation but rather a technical office set up to centralize relief as well as correspondence. The ICRC had decided against Cyprus because Beirut offered better travel and communications facilities. The ICRC had then dispatched a representative to Tel Aviv to try to clear up any misunderstandings with the Israeli government. He had concluded that maintaining a central delegation for Palestine was liable to hurt the national feelings of the new State of Israel.122

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119 Special report by Dr Pfimlin of 23 October 1948 – ICRC Archives, B G 59/I/GC, ex-836.
120 RICR, No. 364, April 1949, pp. 271–274.
122 Minutes of the meetings of the Bureau held on 28 October, 2 November and 18 November 1948 – ICRC Archives, A PV. Letter of 10 October 1948 from the Israeli Ministry of Foreign Affairs to the ICRC and telegraphic response by the ICRC on 29 October 1948. Report of 18 November 1948 by Dr Max Wolf on his mission to Tel Aviv – ICRC Archives, B G 59/I/GC, ex-837 and ex-835.
The signing of the different armistices, between February and July 1949, and the general repatriation of prisoners of war, led the ICRC to review its set-up once more. It closed its delegation in Gaza at the end of March. In late July 1949, the ICRC delegation in Palestine as such ceased to exist. There then remained: a delegation in Israel; a delegation in Jordan, covering Arab Palestine and the old city of Jerusalem; a delegation in Egypt, representing the ICRC at the League of Arab States; and a resident delegate in Lebanon, who also covered Syria.

Yet tensions continued despite the armistices. The demarcation line, guarded militarily, remained difficult to cross. In Jerusalem, traffic was still interrupted between the old city, in Jordanian hands, and the new city, under Israeli control. Numerous localized incidents also led to the capture of new prisoners. As a result, the ICRC continued to act as a neutral intermediary throughout all of 1950.

At the end of July 1950, however, the Israeli authorities suggested that the ICRC close its delegation in Israel. As the situation had stabilized, they believed that the organization’s activities could be taken over either by the mixed armistice commissions or the Magen David Adom. The ICRC, meanwhile, considered that its set-up in the Middle East formed a coherent whole and that its presence in Israel and the neighbouring Arab countries was still necessary for the exchange of family correspondence and to solve a whole range of specific cases of a distinctly humanitarian nature (e.g. reuniting families, obtaining information about imprisoned civilian Arab infiltrators).

Following further requests by the Israeli government, and after consulting its delegates in the different countries of the Middle East, the ICRC decided to shut down its delegation in Israel on 31 August 1951. The closure of the delegation in Jordan followed in mid-October. As for the Cairo delegation, it became again, as before the Palestine conflict, the seat of the ICRC’s regional representation for the Middle East, until it, too, was closed, on 15 November 1952.

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123 At the time, resident delegates, also known as honorary delegates, were recruited on the spot from within the Swiss communities abroad and lent their support to the ICRC on a voluntary basis.


125 Letter of 31 July 1950 from the Israeli foreign minister to the ICRC. Letters of 1 November 1950 and 29 January 1951 from the ICRC to the Israeli foreign minister – ICRC Archives, B G 59/1/GC, ex-837, and B AG G 85.

126 Minutes of the meetings of the Commission for External Activities held on 13 January, 13 June, 4 July and 11 July 1951 – ICRC Archives, A PV. Letter of 3 June 1951 from the Israeli foreign minister to the ICRC president and response by the latter on 16 July 1951 – ICRC Archives, B AG G 85.

The victims

Wounded and sick

On 14 May, when the State of Israel was proclaimed and the conflict became international, over a dozen hospital facilities were under ICRC protection. Nurses were assigned to the main hospitals under Arab administration, where their presence encouraged the local staff to stay on.

After the start of the fighting, all these hospitals were able to keep working. The delegation received many requests from both parties to place other hospitals situated in combat zones under the protection of the Red Cross flag. These requests were generally accepted. The problem assumed such proportions that de Reynier proposed concluding a general agreement on the exclusive use of the red cross emblem, instead of the red crescent or the red shield of David, to protect hospitals. This plan did not materialize, however, because of the start of the first truce, on 11 June, and the consequent halt in fighting.

The ICRC’s protection was particularly instrumental in ensuring that Arab hospitals in areas under Israeli control were respected, that they received funds and that the Arab staff could keep working there.

Jerusalem Government Hospital – situated around 200 metres from the front line, in an area that came under Israeli control from the start of the hostilities – was on the whole respected, thanks to the tenacity of the different ICRC nurses who worked there over the months. It remained under Arab management for half a year. However, its precarious situation was a matter of concern to the delegation, which repeatedly evacuated Arab patients and staff after the start of the first truce. Following negotiations between the Israelis and Arabs, conducted through the intermediary of the ICRC, the remaining Arab staff were finally evacuated on 19 November 1948. After the hospital had been transferred to the Israeli Ministry of Health, which committed itself to using it in accordance with the Geneva Convention, it nonetheless remained under ICRC protection.

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128 Note of 14 April 1948 by de Reynier to the civil and military authorities of Palestine concerning the hospitals, medical facilities and other buildings under Red Cross protection – ICRC Archives, B G 59/I/GC, ex-830.

129 Note of 30 May 1948 and monthly rapport No. 4 by de Reynier for June 1948 – ICRC Archives, B G 59/I/GC, ex-830. Meetings of the meeting of the Bureau held on 7 July 1948 – ICRC Archives, A PV.

130 Monthly reports No. 6 and No. 7 by de Reynier for August and September 1948. Report by de Reynier on the meeting of ICRC delegates in Palestine, held in Beirut on 10 January 1949 – ICRC Archives, B G 59/I/GC, ex-830.

saved. In this merciless war (...), this hospital has been able to continue to serve, and no lives have been lost there because of the military operations.\textsuperscript{132}

In Jaffa, three hospitals and an outpatient clinic benefited from similar protection. The ICRC managed, in particular, to prevent the doctors’ cars from being requisitioned, so that they could continue to visit their patients. After the Israeli armed forces occupied Ramleh in July 1948, the delegates interceded on behalf of a military hospital, which had been set up there by the Egyptian Red Crescent, as some of its supplies had been seized. At the delegates’ request, the materials were returned by the Israeli authorities and sent to Ramallah in Arab Palestine. In Nazareth, the ICRC took two hospitals under its protection and donated medicines and blood plasma.\textsuperscript{133}

In total, during the first truce, the ICRC provided material assistance to some 15 hospitals and other health-care facilities in the Jewish new city of Jerusalem. To this end, it organized four convoys from Tel Aviv to Jerusalem, which transported a total of 212 tonnes.\textsuperscript{134}

In Arab Palestine – the old city of Jerusalem, Bethlehem, Ramallah, Nablus, Tulkarem, Jericho, Hebron and Gaza – a dozen hospitals were able to keep working in large part thanks to food and medical supplies provided by the ICRC.

The ICRC’s role in protecting and assisting hospitals ended following the 1949 armistices. Many of the facilities until then supported by the ICRC delegation were taken over by the ICRC Commissariat for Relief to Palestine Refugees.

Prisoners of war

The ICRC’s work on behalf of prisoners of war really began with the internationalization of the conflict. Before that, it had taken action only in a few cases where civilians had been taken prisoner.

Visits to prisoners and their treatment

The ICRC started to visit Israeli prisoners of war in Transjordan on 3 June, in Egypt on 17 June and in Syria on 25 July, and Arab prisoners of war in Israel on 7 June 1948. After that, visits continued regularly, once or twice a month, until the general repatriation of prisoners of war following the 1949 armistices. In addition to these formal visits, about which reports were sent to the detaining powers and prisoners’ countries

\textsuperscript{132} Monthly report No. 9 by de Reynier for November 1948 – ICRC Archives, B G 59/1/GC, ex-830.

\textsuperscript{133} Note of 6 September 1948 by P. Gaillard, delegate in Tel Aviv, about the handover by the Jewish authorities of Ramleh hospital, and monthly report by P. Gaillard for September 1948 – ICRC Archives, B G 59/1/GC, ex-829.

of origin, ad hoc visits were carried out to hand over family correspondence, distribute relief and talk in private with any prisoners who so requested.\(^\text{135}\)

In June 1948, there were some 2,000 Arab prisoners of war in Israel, while 400 Israeli prisoners of war were held by the Arabs. By October, these numbers had risen to 6,000 Arab prisoners in Israel – 1,000 of whom were military and the rest civilian – and nearly 900 Israeli prisoners, namely 673 in Transjordan, 147 in Egypt, 46 in Syria, and 7 in Lebanon, who also received ICRC visits. In Transjordan, Egypt and Syria, the Israeli prisoners grouped together in a single place of detention, not counting the hospitals treating wounded and sick prisoners. These were, respectively: in Jordan, Um al-Jemal camp, in the desert eight kilometres from Mafraq, on the road to Baghdad; in Egypt, Abbassieh camp, on the outskirts of Cairo; and in Syria, Mazzé military prison in Damascus. In Israel, the prisoners were at first held at Neve Shaanan camp in Jerusalem and in the fortress at Acre until, given their growing number, new camps were gradually opened in Jalil, Athlit, Um al-Khaled, Sarafand and Tel Litvinsky. The delegates also had access to the hospitals treating wounded and sick prisoners.\(^\text{136}\)

The delegates reminded the authorities that the lives of captured soldiers must be spared. They tried to obtain complete lists of the prisoners and to speed up the exchange of family correspondence, which was often held up. Any delays or failure in either respect only fuelled the suspicions of the belligerents, in a context where reciprocity played an important role. The delegation also handled tracing requests regarding prisoners who had been reported missing.\(^\text{137}\)

During their visits, the delegates urged the detaining authorities to make any necessary improvements, in accordance with the 1929 Geneva Convention relative to the Treatment of Prisoners of War. In addition to examining the camp facilities, they made sure that the prisoners could correspond with their families, receive relief and choose their own spokesmen.

The delegates were also responsible for delivering large amounts of aid to the prisoners, both in the form of individual packages, generally from the Arab countries, and as bulk relief, which came mainly from Israel. The Israeli authorities gave the delegation the equivalent of around 40,000 Swiss francs a month to buy and distribute relief to Israeli prisoners in Arab countries. These funds were used, for example, to purchase 650 beds for prisoners in Jordan and Syria.\(^\text{138}\)

\(^{135}\) See, in particular, the reports on visits in Egypt, Israel, Syria, Transjordan and Lebanon, June to October 1948 and October 1948 to January 1949 – ICRC Archives, C SC RR 1392 and 1401.

\(^{136}\) Ibid. General report by de Reynier, cited above.


In Syria, Israeli prisoners of war were held in a military prison, under a regime closer to that of common criminals than the conditions of internment laid down by the Geneva Convention. Despite repeated representations to the Syrian authorities both by the delegates and the ICRC president, the Israeli prisoners were never transferred to an internment camp set up especially for them.\footnote{General report by de Reynier, memorandum of 9 November 1948 from de Reynier to the commander-in-chief of the Syrian army and monthly report No. 12 by de Reynier for February 1949. Letter of 4 September 1948 from J. Munier to the chief of general staff of the Syrian army and memorandum of 6 December 1948 – ICRC Archives, B G 59/1/GC, ex-830 and ex-842.}

In November 1948, an Israeli prisoner of war who had escaped from Egypt and reached Tel Aviv denounced different forms of ill-treatment suffered by the Israeli prisoners there, including forced labour, violence against wounded and sick people in particular and the looting of aid. These revelations prompted de Reynier to make a special visit to Abbassieh camp and the military hospital where prisoners were treated. He found that serious violations of the Geneva Convention had indeed been committed by low-ranking officers during the first three months of the prisoners’ captivity, unbeknown to the delegates; neither the spokesman, nor the doctor nor the Israeli officers had ever said anything to them, for fear of reprisals. The head of delegation protested strongly to the Egyptian authorities, which took the necessary measures to prevent such acts from recurring. At the same time, he asked the ICRC not to forward his visit report to the Israeli authorities, as he preferred to explain his findings to them himself, so as to prevent possible reprisals against Egyptian prisoners of war in Israel.\footnote{Report on visits to the prisoner-of-war camps of Abbassieh, al-Rashab and the military hospital of Abbassieh, 30 November 1948, produced on 2 December 1948 by de Reynier, strictly confidential – ICRC Archives, B G 59/1/GC, ex-830.}

After the fighting in safety zone II on 16 and 17 August 1948,\footnote{See p. 441 below.} the delegates transferred nine Israeli prisoners of war to the headquarters of the Transjordanian army in Jerusalem. On visiting them the next day, they found that they had been ill-treated over the night. Alerted by the delegates, the commander of the Arab forces for Jerusalem promised to conduct the necessary inquiries. The prisoners were transferred the same day to Um al-Jemal camp in Transjordan to prevent any further ill-treatment.\footnote{Note of 4 September 1948 from Dr R. Pflimlin to the ICRC delegate in Amman – ICRC Archives, B G 59/1/GC, ex-830.}

As for the Arab prisoners of war in Israel, they were in fact – some 5,000 of them – mostly civilians. They were Arabs from Palestine, generally of weapon-bearing age, who had been rounded up when the Israeli armed forces occupied their towns or villages. Sent to camps, where they were enlisted in work teams and paid a wage, they were nonetheless considered as prisoners of war by the Israeli authorities, which treated them accordingly. While the delegation protested against the internment of civilians, who should be set free unless they have committed hostile acts, it accepted
the status of prisoner of war conferred on them, as it granted them numerous advantages, which they would not have had as simple civilian internees. This was precisely what the ICRC was seeking to obtain for civilian internees in the preparatory work for the adoption of the Fourth Geneva Convention of 1949 relative to the Protection of Civilian Persons in Time of War.\textsuperscript{143} De Reynier worded the dilemma as follows:

We ask ourselves to what extent the Jewish authorities have the right to hold as prisoners of war an entire civilian population which, it is true, is of an age to bear weapons, but that hail from the territories occupied by the Israeli army (...). The Jews’ request that these people be ‘repatriated’ is basically a ploy aimed at emptying the Jewish zone of its Arab inhabitants. And these poor people, if released, would stand no chance of leading normal lives in the Jewish zone, given the total pillage and, in most cases, destruction of their homes and centres of activity. If they are ‘repatriated’, that is transferred to the Arab side, they will find some family members there, but will have no other status or means of livelihood other than as refugees. Whether you look at it from a humanitarian or a political point of view, it is clearly impossible for the delegation to make a decision, and we have agreed to adhere to the Arab opinion itself, which refuses this ‘repatriation’ demanded by the Jews. We confine ourselves to requesting that the Convention be applied to this new type of prisoner of war.\textsuperscript{144}

\textit{Seriously wounded and sick prisoners of war and repatriations during the hostilities}

From the start of the hostilities, the delegates alerted the Arab and Israeli authorities to the plight of seriously sick and wounded prisoners of war – and of women, the elderly and children held in prisoner-of-war camps – and urged them to repatriate them as soon as possible.

The Transjordanian military authorities agreed to release 89 women from Mafraq camp – including 87 female fighters captured during the surrender of Kfar Etzion and transferred to Hebron – whom the delegates repatriated to Israel on 8 June 1948.\textsuperscript{145}

On 3 August 1948, the delegates also organized the transfer to the Arab zone of 214 Arab prisoners of war – the disabled, elderly and children – who had been released by the Israeli authorities.\textsuperscript{146}

\begin{footnotes}
\item[143] General report by de Reynier, cited above. Report on the meeting of ICRC delegates in Palestine, held in Beirut on 10 January 1949. Note from M. Wolf dated 18 November 1948 to President Ruegger and for the special attention of J. Pictet, with handwritten notes by E. de Bondeli – ICRC Archives, B G 59/I/GC, ex-830 and ex-835.
\item[144] Note No. 6369 dated 11 January 1949 by de Reynier on the meeting of the ICRC delegates in Palestine held in Beirut on 10 January 1949. Monthly report No. 8 by de Reynier for October 1948 – ICRC Archives, B G 59/I/GC, ex-830.
\item[145] Note dated 6 July 1948 by J. Courvoisier – ICRC Archives, B G 59/I/GC, ex-832.
\item[146] Report by Dr P. Fasel of 7 August 1948 – ICRC Archives, B G 59/I/GC, ex-830.
\end{footnotes}
The Israeli authorities wished to release another 500 or so Arab prisoners from the same categories. However the Arab States, approached by the delegation, refused to take them in as they were almost all Palestinians.\textsuperscript{147}

On 30 November, following months of ICRC representations to the Transjordanian authorities, 26 disabled Israeli prisoners of war were repatriated from Um al-Jemal camp under ICRC auspices.\textsuperscript{148}

After lengthy negotiations, mixed medical commissions – comprising two doctors from the ICRC and one from the respective detaining authorities – were set up in Jordan, Egypt, Syria and Israel in January and February 1949 in order to determine which wounded and sick prisoners should be repatriated under Articles 68 ff. of the Geneva Convention of 1929. Following these commissions’ decisions, 76 disabled Israeli prisoners of war from Um al-Jemal camp were repatriated on 3 February 1949. A second operation on 4 April saw the simultaneous repatriation of six Israeli prisoners of war held by the Syrians, one Israeli prisoner of war held by the Lebanese and four Syrian prisoners of war held by the Israelis.\textsuperscript{149} The repatriation of disabled Israeli prisoners held in Egypt and the remaining disabled Arab prisoners in Israel took place during the general repatriation of all prisoners, which began in late February-early March 1949.

Of particular concern was the case of an Israeli woman prisoner of war in Syria, whose repatriation the delegates had been requesting since September 1948, as she was expecting a child. Nine months pregnant, she was finally exchanged for a Syrian prisoner of war on 2 February 1949.\textsuperscript{150}

\textit{The general repatriation of all prisoners of war}

In June 1948, the Israeli authorities informed the ICRC delegates that they were willing to consider a general exchange of prisoners of war held in Israel and the Arab countries. They also brought the matter before the United Nations mediator, and the main negotiations took place under UN auspices.

Unlike the early repatriation of seriously ill and wounded prisoners of war, the Geneva Convention did not make provision for the repatriation of healthy prisoners during hostilities. The ICRC instructed its delegates that the organization could not instigate such an exchange and that, were it to act as an intermediary, it could only convey proposals of a humanitarian nature.

\textsuperscript{147} Monthly report of the Tel Aviv delegation for September 1948 by P. Gaillard. Report on the meeting of ICRC delegates in Palestine, cited above, and letter of 7 December 1948 by de Reynier to the secretary-general of the Arab League – ICRC Archives, B G 59/1/GC, boxes 829 and 830.


Nonetheless, at the request of both parties, the delegates agreed to lend their services for an exchange, as long as it were conducted not on a head-for-head basis but by category (e.g. disabled, women, etc.), irrespective of the number of people in each, and that the released prisoners were not sent back to the front.\footnote{Notes No. 131 dated 5 July and No. 225 dated 20 August 1948 from the ICRC to R. Gouy, delegate in Tel Aviv. Monthly report No. 6 by J. de Reynier for August 1948 and memorandum appended to note No. 787 from the ICRC to J. de Reynier dated 9 March 1949 – ICRC Archives, B G 59/1/GC, ex-829 and ex-830. Minutes of the meetings of the Bureau held on 6 January and 13 January 1949 – ICRC Archives, A PV. English Supplement, RICR, Vol. II, No. 3, March 1949, p. 121.}

In the event, these plans did not materialize until the signing of the armistice agreements, as the Arab States were in no hurry to receive thousands of prisoners of Palestinian origin held by the Israelis.\footnote{Monthly report No. 9 by J. de Reynier for November 1948 – ICRC Archives, B G 59/1/GC, ex-830.}

From February 1949, the ICRC took part in the general repatriation of prisoners of war, as laid out in the armistice agreements between Israel and the different Arab States that were concluded under the aegis of the UN interim mediator, Ralph Bunche.

The main operations were:

- between Israel and Jordan, from 21 February to 3 March 1949: the simultaneous repatriation of 603 Israeli and around 1,500 Arab prisoners (Jordanians, Iraqis and Palestinians);\footnote{General report by J. de Reynier and monthly report No. 13 for March 1949 – ICRC Archives, B G 59/1/GC, ex-830.}

- between Israel and Egypt, from 6 to 9 March 1949: the repatriation of 144 Israeli prisoners (including 30 disabled) and 1,214 Arab prisoners (including 52 disabled), namely Egyptians, Sudanese and Saudis;\footnote{Idem. Report of 10 March 1949 by A. de Cocatrix in Cairo and monthly report for March 1949 by Dr Pflimlin in Gaza – ICRC Archives, B G 59/1/GC, ex-842 and ex-836.}

- between Israel and Lebanon, on 24 March 1949: the repatriation of 7 Israeli and 35 Lebanese prisoners;\footnote{General and monthly reports for March 1949 by J. de Reynier, cited above.}

- between Israel and Syria, on 21 July 1949: the repatriation of 31 Israeli and 59 Syrian prisoners; a preliminary exchange of 8 Israeli and 14 Syrian prisoners, including civilians, had already taken place on 2 May, without ICRC participation because of a last-minute hitch.\footnote{Monthly report No. 15 by J. de Reynier for May 1949 and report of 23 July 1949 by J. Munier – ICRC Archives, B G 59/1/GC, ex-830 and ex-842.}

In addition, during the evacuation of Egyptian troops besieged in Faluja on 26 and 27 February 1949, following the Israeli-Egyptian armistice, the Egyptian commander handed to the Israeli authorities the five Israeli prisoners of war they were holding,
whom the Gaza-based delegates had visited while distributing food and medicines to the population of the enclave.\footnote{Monthly report No. 11 by J. de Reynier for January 1949 and monthly reports for February 1949 by Dr Pflimlin and Violette Rogivue – ICRC Archives, B G 59/I/GC, ex-830 and ex-836. \textit{ICRC Annual Report 1949}, p. 72–74.}

After these operations, around 1,500 Arab prisoners, mainly Palestinians, remained in prisoner-of-war camps in Israel. These included 300 new prisoners that the Israeli troops had been keeping near the front – as workers or servants – where they were denied all contact with the outside world; they were gradually transferred, starting in May, to the camps visited by the ICRC. Among them were also a small number of Egyptian, Jordanian and Lebanese soldiers, about whose capture the ICRC had not been informed, despite its repeated efforts to obtain complete prisoner lists and its enquiries about missing combatants.\footnote{General report and monthly report for May 1949 by J. de Reynier, cited above. Report of 24 May 1949 by F. de Reynold and Note No. 45 dated 30 June 1949 from R. Gallopin to the ICRC delegation in Tel Aviv – ICRC Archives, B G 59/I/GC, ex-842. Note dated 28 June 1949 by E. de Bondeli on his meeting with a member of the Israeli delegation at the Diplomatic Conference – ICRC Archives, B G 59/I/GC, ex-837.}

The delegates continued visiting these prisoners until all of them had been released. Those who came from places that were now part of Israel were released inside Israel, while the others were transferred to Arab Palestine or the Arab States. If necessary, the ICRC organized or took part in the transfers, including those of 15 Arab prisoners to the Haifa region on 10 July, of 450 Arab prisoners to Gaza on 21 July, and of 290 Arab prisoners to the town of Acre on 20 August 1949. They also obtained lists of the released prisoners from the authorities and urged them to issue residence permits to those set free in Israeli-controlled areas. By November 1949, the delegates considered all these questions to be resolved.\footnote{Telegram of 20 July 1949 by J. Courvoisier, notes dated 7 August and 20 August 1949 by Dr P. Fasel – ICRC Archives, B G 59/I/GC, ex-832 and ex-836. Annex to the minutes of the meeting of the Delegations Commission held on 9 November 1949 – ICRC Archives, A PV.}

In 1950 and 1951, the ICRC still regularly visited several dozen Israeli prisoners in Abdulli camp near Amman, in Amman central prison and in Ramallah prison. Except for some soldiers, these were mainly civilians who had crossed the demarcation line illegally. The Jordanian authorities treated them as prisoners of war, meaning that the delegates could visit them, talk to them in private and hand over relief parcels. These prisoners were generally repatriated some weeks after their capture, following the delegation’s representations.\footnote{Notes by the delegation for Jordan to the ICRC dated 4 April, 11 July, 25 July, 27 July, 11 September, 10 October, 26 October and 31 October 1950 – ICRC Archives, B G 59/I/GC, ex-841. Annex to the letter of 29 January 1951 by the ICRC to the Israeli foreign minister – ICRC Archives, B AG G 85. Minutes of the meetings of the Commission of External Activities held on 4 October 1950 and 7 February 1951 – ICRC Archives, A PV. \textit{ICRC Annual Report 1950}, pp. 66–67, and \textit{ICRC Annual Report 1951}, p. 63.
The civilian population

The safety zones in action and their closure

We have seen above how the ICRC had to shut down safety zone III during the battle for Jerusalem.

On 12 June, after the start of the first truce, Count Bernadotte requested the immediate handover of the King David Hotel for use by his staff, referring – seeing the delegation’s reluctance – to the gentleman’s agreement concluded with the UN representative, Pablo de Azcárate. In light of the ICRC’s commitments to the Israeli and Arab authorities regarding the safety zones, de Reynier agreed only once he had received formal requests to this effect from both parties. Only then was the King David Hotel detached from safety zone I, on 15 June. The ICRC flag flying over the building was replaced by the UN flag.161

However, when the truce ended on 8 July, the UN officials abandoned the King David Hotel to the Israeli forces.162 As a result, it was attacked by Arab troops. The fighting endangered the two other buildings in safety zone I, namely the YMCA, which housed the ICRC delegation, and the Terra Sancta convent. On 12 July, the ICRC sent identical telegrams to the Israeli provisional government and the secretary-general of the Arab League demanding an immediate end to all shooting from and at the King David Hotel, the evacuation of Israeli forces from the building and its return under the Red Cross flag, otherwise the ICRC would be forced to shut down safety zone I entirely. The Israeli authorities replied that they could not leave the King David Hotel for imperative military reasons. Thus, as the zone no longer fulfilled the necessary conditions to serve as a refuge, the delegation decided to close it down on 22 July, after evacuating the Arab refugees and staff and returning the YMCA building and the Terra Sancta convent to their respective owners. After that, the YMCA was placed under the US flag and included among the buildings under the protection of the US Consulate General.163

In the meantime, fearing an escalation in the fighting, and in response to requests by both parties, the ICRC had considered setting up new safety zones on both sides,

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162 The Israeli authorities claimed that the United Nations and the Truce Commission had handed the King David Hotel to them, which the United Nations and the Truce Commission denied. On this matter, see note by J. de Reynier of 18 July 1948 – ICRC Archives, B CR 201-11.

this time not on the front but behind the lines, to be run with the support of and under the supervision of the Arab and Israeli authorities respectively. The ICRC believed such zones would correspond more closely to the existing draft article on the subject than the Jerusalem ones, which had been established at the scene of the fighting and under the responsibility of the ICRC.\footnote{Minutes of the meeting of the Bureau held on 7 July 1948 – ICRC Archives, A PV, Letter No. 152 of 16 July 1948 from R. Gallopin to J. de Reynier – ICRC Archives, B G 59/1/GC, ex-843.} This initiative was, however, abandoned following the entry into force of the second truce on 18 July 1948.

Safety zone II – the only one left – was located between the front lines, which it separated. It provided truly neutral territory between the Arab and Israeli zones. Despite this strategic location, it was respected until the night of 16 to 17 August, when its neutrality was gravely violated. Israeli forces occupied the western part and took up position in the Jewish School of Agriculture and the Arab College, where there were 32 people – the college staff and Arab refugees – whom they transferred to Jerusalem. Meanwhile, Arab troops overran much of the area around Government House, which was nonetheless respected. On 18 August, the ICRC delegation protested vehemently to the Arab and Israeli military authorities in Jerusalem. The next day, the delegates met the Israeli governor and the commander of the Israeli forces in Jerusalem, who agreed in principle to withdraw their troops, on condition that the Arab forces evacuated their positions around Government House. The Israelis also agreed unilaterally to hand over the 32 people who had been transferred from the Arab College. These were brought to Government House on 21 August, during a specially arranged ceasefire. Also on 19 August, the commander of the Arab forces in Jerusalem agreed in principle to evacuate his troops from their positions around Government House.\footnote{Notes by P. Gaillard and Dr Lehner dated 21 August 1948 concerning the violation of safety zone II in Jerusalem, the Israeli handover of 32 people from the Arab College and the evacuation of mutilated bodies from the grounds of Government House – ICRC Archives, B G 59/1/GC, ex-843 and ex-829.}

In the meantime, the 17th International Conference of the Red Cross was under way in Stockholm, chaired by Count Bernadotte. There he was inundated with complaints from the Arabs and Israelis, while the ICRC was accused by the Israeli authorities and press of having failed to live up to its responsibilities, as Israeli soldiers had been killed and their bodies mutilated inside the safety zones, “while they were under the protection of the International Red Cross”.\footnote{Telegram of 22 August 1948 from the Israeli foreign minister to Count Bernadotte – ICRC Archives, B G 59/1/GC, ex-839. Article titled “Red Cross Protection”, published in the Palestine Post of 23 August 1948.} The ICRC delegation in Jerusalem felt that this was an inaccurate interpretation of what had happened at a time when the safety zone’s neutrality was being seriously violated. And it found it particularly insulting to the delegates who had risked their lives to save a dozen Israeli prisoners and wounded during the fighting in the safety zone.\footnote{See on this subject the note from Dr R. Pfliimlin and P. Calpini to the ICRC, dated 18 August 1948 – ICRC Archives, B CR 201-11.
protested to the Israeli foreign minister and got the newspaper in question to publish a correction.168

From Stockholm, where he was taking part in the Conference, de Reynier urged the delegates to do their utmost to keep safety zone II going, with the agreement of the Arab and Israeli authorities. If this proved impossible, the zone should be handed over to the United Nations, considered to be the legal successor of the Mandatory authority in Jerusalem. Following a meeting between the ICRC president and Count Bernadotte it was agreed that, if safety zone II could not be maintained under the ICRC flag, it should be transferred – with the accord of the Arab and the Israeli authorities – to the UN, which would be responsible for ensuring that no troops took possession of it subsequently.169

The situation nonetheless remained very tense, and fighting continued in the safety zone and immediate surroundings. The delegates stayed in Government House, which still flew the ICRC flag (unlike the Jewish School of Agriculture and the Arab College). The fact that it was respected was, they believed, thanks to the work of the ICRC nurses, who had won the esteem of both the Israelis and the Arabs. The delegates realized that their withdrawal was liable to unleash a decisive battle for Government House. They wanted to avoid this, as they had undertaken to hand the building over only to the legally constituted authority that succeeded the Mandatory government.170

Thanks to negotiations led by UN representatives,171 the situation seemed to have stabilized by 4 September, following the evacuation of all the troops and the establishment of a demilitarized protection belt around the safety zone, under the supervision of UN observers. The Red Cross flag again flew over the entire zone, but the ICRC informed the Israeli and Arab authorities that it would withdraw definitively if the zone’s neutrality were violated again.172

In reality, though, calm did not return to safety zone II. It was no longer a safe place to be and therefore no longer fulfilled its purpose. Immediately after the assassination of Count Bernadotte, de Reynier decided to evacuate the refugees and delegates from

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171 The fighting that took place within safety zone II constituted a violation of the truce and was thus also the remit of the United Nations Truce Commission.

172 Press release of 5 September 1948 by the ICRC delegation in Palestine and note of 6 September 1948 by P. Gaillard concerning safety zone II, Jerusalem – ICRC Archives, B G 59/1/GC, ex-829 and ex-843. Minutes of the meeting of the Bureau held on 9 September 1948 – ICRC Archives, A PV.
the zone, which was completed by 24 September. It was, however, officially handed over to the UN Truce Commission only on 7 October, after the Arab and Israeli authorities had been notified on 3 October. The delegates believed that this progressive and discreet closure, carried out in coordination with the UN, was the only way of ensuring the safety of the refugees and delegates and avoiding blame for having handed over a strategic position to one party or the other through a hasty departure.¹⁷³

As for the status and *modus operandi* of the safety zones in Jerusalem, these were laid out in the note of 13 May from the ICRC delegation to the civil and military authorities in Palestine, supplemented by a further note on 30 May.¹⁷⁴ These established that the zones “under the Red Cross flag” were reserved exclusively for civilians in the following categories: women who were in no way part of the armed forces of the warring parties, people over 65 years of age, and the wounded and sick pending their evacuation to a hospital – irrespective of their race, religion or nationality – as well as the staff running the zones. Practicalities such as the delivery of supplies, maintenance of the installations and the provision of health services were the remit of the authorities responsible for the refugees. The ICRC, meanwhile, was in charge of overall management, including the administrative staff, and supervision of the zones. The zones could be closed down after a notice period of 30 days or, if the hostilities ended, by decision of the ICRC in agreement with the parties.

As we have seen, however, the situation on the ground often prevented these rules from being respected to the letter.

From the start of the battle for Jerusalem until the first truce, safety zone I, where the delegation was based, sheltered on average over 100 refugees, mainly Arabs, that is around 85 at the YMCA, half of them children, and some 50 at the *Terra Sancta*. The King David Hotel was occupied only occasionally. All the refugees were evacuated during the first truce.

In addition, according to de Reynier, this zone, situated at the most strategic point in Jerusalem, saved thousands of lives by the simple fact of its existence, as it prevented any shooting from there onto the old city, which it overlooked.

When hostilities resumed after the first truce, around 50 Jewish refugees found shelter at the *Terra Sancta*, until the zone was closed on 22 July. According to the ICRC delegates, during the first truce at least 10,000 Jews registered to take refuge there in the event of renewed fighting, but the Israeli authorities only allowed around 50 of them to do so.¹⁷⁵

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¹⁷³ Notes No. 73 of 23 September and No. 78 of 4 October 1948 by J. de Reynier concerning safety zone II – ICRC Archives, B G 59/1/GC, ex-843. Activities report of 2 October 1948 by Dr P. Fasel and report of 19 October 1948 by Dr R. Pflimlin – ICRC Archives, B G 59/1/GC, ex-836. Today, Government House still houses the headquarters of the United Nations Truce Supervision Organization (UNTSO), which was set up in 1948 and has since then carried out different activities within the framework of United Nations peacekeeping operations in the Middle East.

¹⁷⁴ ICRC Archives, B G 59/1/GC, ex-830.

Safety zone II, which functioned normally from 14 May until the events of the second half of August 1948, was managed by a delegate – first Dr Pierre Fasel and then Dr Raul Pfimlin – assisted by two nurses – in turn Nelly Bolomey, Marguerite Giauque, Violette Rogivue and Gabrielle Thorin. The Arab College and the Jewish School of Agriculture each housed several dozen people, whose lives were thus saved. Around 20 Arab children and a dozen women found refuge in Government House. In addition, Arab women came in each day from nearby villages to take their children to the clinic run by the ICRC nurses. Above all, though, this zone was useful as a crossing point for evacuating people, delivering relief supplies and exchanging mail across the lines.\(^{176}\)

Food never ran out in either zone, thanks in part to the stocks of non-perishable food left by the Mandatory government’s troops. As the Arab forces had cut water supplies to Jerusalem, the zones were in the same predicament as the population of the Jewish new city and relied on water from cisterns, which was strictly rationed.\(^{177}\)

### The transfer of civilians for security reasons

Even before the internationalization of the conflict, the delegates had negotiated with both sides the release of a number of civilians who had been taken prisoner, whom they handed over to the authorities of their places of origin. They also facilitated or organized the evacuation of civilians in danger to a safe place, under their protection. Operations of this kind continued throughout the first months of the Arab-Israeli conflict. In addition to those already mentioned during the battle for Jerusalem, the following stand out.

On 8 June 1948, the delegates evacuated to Jerusalem old city, through safety zone II, some 60 Arab workers who had been captured by the Israelis. The same day, they handed over to the Israeli authorities in Jerusalem a Jewish political and religious leader and eight members of his family arriving from Amman.\(^{178}\)

On 14 June, the delegates transferred to Tulkarem, in the Arab zone, 30 Arab children handed over to them by the Israeli authorities.\(^{179}\)

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176 General report by J. de Reynier and note from J. Bauverd, ICRC nurse, to Lucie Odier, member of the ICRC, dated 5 August 1948 – ICRC Archives, B G 59/I/GC, ex-830 and ex-843. Activities report of 2 October 1948 by Dr Fasel, cited above.

177 *RICR*, No. 390, June 1951, pp. 480–482.

178 Summary of the different activities carried out by the ICRC delegation in Jerusalem, by E. de Bondeli, undated document – ICRC Archives, B G 3/82. Note from E. de Haller of the Swiss Federal Department of Foreign Affairs, dated 10 June 1948, conveying a message from J. de Reynier to the ICRC – ICRC Archives, B G 59/I/GC, ex-830.

179 Note by J. Courvoisier dated 7 July 1948 – ICRC Archives, B G 59/I/GC, ex-832.
On 16 June, they accompanied some 40 Arab women, children, elderly people and religious leaders from the Jewish new city of Jerusalem to the Arab old city.\textsuperscript{180}

At the request of the Palestinian Arab authorities, the delegation also helped negotiate the transfer on 18 June to the Arab zone of over 1,000 women, children and elderly people, who had been held by the Israeli military authorities in camps between Tel Aviv and Haifa.\textsuperscript{181}

Lastly, on 31 July, the delegates organized the transfer to the Arab zone, via safety zone II, of 11 Arabs – six elderly men, two women and three sick prisoners from Jerusalem Government Hospital.

We contacted the Arabs to arrange the time and procedures for the crossing. The hoisting of a Red Cross flag on each side of the front line was to be the agreed signal for both sides to step forward and start the exchange. For, despite the truce, the lines are not open and frequent firing can still be heard. Since this operation was so well planned, we thought that the presence of a delegate on the front line would be unnecessary. This soon proved unrealistic, however, as both the Jews and the Arabs categorically refused to proceed to the exchange unless an ICRC delegate were there to advance between the lines and establish contact with the first enemy positions. Once more, we had to face the fact that, as long as our delegations were situated close to the front lines, such a role would be absolutely inevitable, if we did not want to subject the Red Cross to the harshest criticism from both parties.\textsuperscript{182}

The Arab minority in Israel

After the fall of Acre on 17 May 1948, the delegates alerted the Israeli authorities to the appalling material situation of the Arab population and urged them to take immediate action to remedy it, in particular by improving public health and safety.\textsuperscript{183}

The delegates supported the efforts of the Arab committees in areas under Israeli control – mainly Jaffa, Lydda, Ramleh, Acre and Nazareth – to obtain the basics needed for survival from the Israeli authorities, after assessing the situation on the ground themselves.\textsuperscript{184} With the formal agreement of the Israeli and Arab authorities, they also organized the transfer of isolated people from former Arab villages to other inhabited areas.\textsuperscript{185}

\textsuperscript{180} Telephone call from Tel Aviv by J. de Reynier on 20 June 1948 – ICRC Archives, B G 59/I/GC, ex-830.


\textsuperscript{182} Note by P. Gaillard dated 1 August 1948 – ICRC Archives, B G 59/I/GC, ex-829.

\textsuperscript{183} Reports No. 6 of 19 May, No. 7 of 21 May and No. 9 of 6 June 1948 by Maximilien de Meuron to the ICRC – ICRC Archives, B G 59/I/GC, ex-835.

\textsuperscript{184} Monthly reports for July, August, September, October and November 1948 by J. de Reynier. Note No. 77 of 4 October 1948 by J. de Reynier – ICRC Archives, B G 59/I/GC, ex-830.

\textsuperscript{185} Monthly report by the Tel Aviv delegation for September 1948, written by P. Gaillard on 12 October 1948 – ICRC Archives, B G 59/I/GC, ex-829.
Refugees

In numerous cases, the delegates also helped Arab civilians living in villages surrounded by Israeli forces, or scattered across the occupied areas, to cross the lines. They realized that their work was “perhaps made easier by the Jews’ desire to see all the Arabs leave”, but they could not just stand back and leave these people unaided. The delegates and nurses helped the crowds of refugees on the move – in particular by taking care of children – and advised them on how best to organize themselves. De Reynier also regularly informed the UN mediator, who was not against the initiatives taken by the delegation in this field.

In August 1948, the ICRC started receiving alarming reports from its delegates and nurses about the plight of the refugees. The town of Ramallah, for instance, which had had 4,000 inhabitants before the war, was now sheltering 60,000 refugees:

The first refugees, who arrived from Jaffa two to three months ago, managed to find acceptable accommodation in schools and convents. Those who came later had to make do with corridors in these buildings. The last to arrive, who were the greatest in number, have had to camp outdoors, against walls, under trees, by the roadside. Some of them have mattresses, a couple of blankets; most of them fled with nothing, or nearly nothing (...).

Few young men, mainly women, lots of children, elderly people (...).

Sanitary conditions in the camps – although we can hardly call them camps – are awful. The toilets, where there are any, are blocked; and where there are none, people make do as they can. You can well imagine the smell and the flies. We tremble at the thought of epidemics (...); thousands of people are in danger and are a danger to others. They need to be fed, clothed, housed. We must help them. We must be helped to help them!

Further south, in the areas covered by the Gaza delegation, the situation was just as bad:

We are very worried about the refugee problem (...), as more people are arriving by the day from the Ramallah area. Already by mid-month, there were around 50,000 in Hebron and 20,000 in Bethlehem. A census is being carried out (by the local authorities) and, if my predictions are correct, by the end of October there will be nearly 250,000 in all. I have visited most of the camps and seen the conditions getting more and more wretched by the day. The refugees have no clothes, no blankets, little or no food. They are in very poor health, death rates have soared (...). We are all trying to help, to relieve and above all to cure, but, alas, we have so few means! By evening, when I look back on

187 Note No. 51 of 3 August 1948 by J. de Reynier – ICRC Archives, B G 59/1/GC, ex-830.
the day’s events, I have to ask myself, ‘What were you able to do, what did you do, did you help?’ And more often than not the reply is very disappointing. It is short because it is a sad and simple ‘no’, ‘nothing’, or ‘little’.\textsuperscript{189}

And also:

Indescribable squalor reigns in the camps: the wounds on the refugees’ feet testify to the kilometres they have covered barefoot; spontaneous and other infections speak of malnutrition, scabies, poor hygiene; many are suffering from vitamin deficiencies. We visited some of the sick in their homes, although can one speak of homes when whole families are cooped up with two to three square metres apiece in shacks with no windows and often no roof, no beds, no blankets, no furniture of any kind, where people have to lie on the floor? They use empty tin cans as pots, cups and lavatory bowls (...). Food is in very short supply, and the medical aid we give seems so little. We would need tonnes of food. (...) We would need to see clothes and food aid arriving in large quantities. We would need to open soup kitchens, if not for the adults then at least for the children, for what is the point of dressing the wounds of famine if we cannot remove the cause.\textsuperscript{190}

The relief delegate in Beirut also underscored the extremely precarious situation of the refugees. He urged the ICRC to do what it could to help them, adding that this would be very well received by the governments responsible for them.\textsuperscript{191}

The ICRC relayed the content of these reports in the appeals it sent, first on its own and then jointly with the League of Red Cross Societies, to the National Red Cross Societies. On the ground, the nurses working in the main places where refugees had gathered opened outpatient clinics, carried out vaccinations and helped introduce improved hygiene measures in the camps. The delegates distributed relief (tents, medicines, food and clothing) as and when it arrived, with the help of local committees, made up of representatives of all political persuasions, whose creation they had encouraged across Arab Palestine.\textsuperscript{192} They also made sure of the support of the health services and numerous religious institutions running hospitals.

\textsuperscript{189} Monthly report for the Southern Sector (Gaza) for September 1948 by Dr R. Pflimlin – ICRC Archives, B G 59/1/GC, ex-836.

\textsuperscript{190} Report for 1 September to 25 October 1948 by Madeleine Weber, nurse in Gaza – ICRC Archives, B G 59/1/GC, ex-836.

\textsuperscript{191} Note of 16 July 1948 and report on relief activities from 15 June to 15 July 1948 by P. Calpini – ICRC Archives, B G 59/1/GC, ex-832.

\textsuperscript{192} Report by Dr P. Fasel on the Ramallah delegation’s activities from 26 July to 18 August 1948. Note of 7 September and report of 30 October 1948 by J. Courvoisier – ICRC Archives, B G 59/1/GC, ex-832.
Restoring family links

In view of the absence of postal relations between Israel and Arab Palestine and the Arab States, the ICRC set up a civilian message and enquiry system.

Civilian messages had already been used during the Second World War as a way to enable families separated by the conflict to communicate. They consisted of special forms with space on the front for the names and addresses of the sender and receiver and the text of the message, and space on the back for the reply. Both messages and replies were limited to 25 words each, and only news of a strictly personal or family nature was allowed. Ad hoc forms were also available for applications for the opening of enquiries about missing persons.

In the second half of 1948, the volume of civilian messages and enquiry applications continued to grow, peaking at 30,000 messages in January 1949. These came mainly from the Arab side, either from former Arab villages under Israeli control or from refugees in Arab Palestine or the neighbouring countries.

The ICRC delegations were responsible for distributing the forms, collecting the completed messages, transporting them across the lines and delivering them to the addressees, after having submitted them for official censorship, which was introduced in July 1948. The Tel Aviv delegation, through which all mail passed, centralized the service. To help in this task, it set up a network of Arab correspondents – appointed in agreement with the Israeli authorities and trained specially – who were recruited in Arab areas under Israeli control.

To speed up the exchange of news, the ICRC also made use of radio broadcasts, in which the senders’ names and new addresses were given, while lists of prisoners of war were read out in public places.

Overall, these were some of the most appreciated activities, and the delegates assigned great importance to the moral support they were thus able to give to the Arabs still living in Israeli territory.

After the 1949 armistice agreements, demand for these services gradually waned. In 1950, the ICRC forwarded a total of 28,000 civilian messages, mostly from and to the Gaza Strip, and handled 1,000 enquiry applications regarding missing civilians and military.


In the second half of 1951, in preparation for the ICRC’s withdrawal and at the request of the Israeli and Arab authorities, this role was taken over by the mixed armistice commissions, the Magen David Adom and the Arab National Societies.\(^{196}\)

Between 1948 and 1951, nearly 200,000 civilian messages were collected, sent across the lines, and distributed by the ICRC.\(^{197}\)

According to an agreement signed between Israel and the Arab States in mid-1949 in the Swiss town of Lausanne, under the auspices of the United Nations Conciliation Commission for Palestine, the mixed armistice commissions were responsible for reuniting dispersed refugee families within Israel. The ICRC nonetheless decided that, on a case-by-case basis, it would support requests that were of a clearly humanitarian nature and had not yet been submitted to the mixed armistice commissions, through representations to the authorities concerned. It therefore authorized its delegates to accept individual requests from: (1) Arabs living in Arab countries who wished to join their families in Israel, (2) Arabs living in Israel who wished to join their families in an Arab country, and (3) Jews in Arab countries who wished to join their families in Israel. In the ICRC’s view, these three cases – even though the last two were not envisaged by the UN – were part and parcel of the same problem and, for reasons of impartiality, could not be treated separately.\(^{198}\)

As for those people seeking to be reunited with their families in Israel, the ICRC hoped the authorities there would receive the strictly humanitarian cases submitted to it favourably, notwithstanding the repatriation criteria applied by the UN, which were restricted to women and minor children whose heads of family were legally resident in Israel. The delegates were soon disappointed, however, as the Israeli authorities systematically refused all requests that did not fit within the established categories. Moreover, while requests to leave Israel met with a positive response from the Israeli authorities, they were not so well received by the Arab States. Lastly, the most sensitive issue was the emigration of Jews living in Arab countries, of which they were often nationals.\(^{199}\)

Despite the manifold difficulties, the delegates managed to transfer 301 people in 1950, that is 139 to Israel, 134 from Israel and 28 who crossed through Israeli territory.

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\(^{196}\) As later noted by ICRC delegates visiting the Middle East in December 1952 and October 1954, exchanges of family messages continued only between Israel and Jordan and Lebanon. They had stopped with Egypt and Syria, which refused to receive messages bearing the emblem of the Magen David Adom.


\(^{198}\) Minutes of the meeting of the Delegations Commission held on 21 September 1949 – ICRC Archives, A PV. Instructions of 23 September 1949 by D. de Traz for the Tel Aviv delegation. Note No. 149 of 13 October 1949 by P. Gaillard, delegate in Israel. Note No. 130 dated 22 February 1950 from the ICRC to the delegations in Jerusalem and Jaffa. Note No. 178 dated 22 June 1950 from the ICRC to its delegate in Beirut – ICRC Archives, B G 59/I/GC, ex-841.

\(^{199}\) Note No. 8197 dated 4 February 1950 by the ICRC delegation in Lebanon and Note No. 345 dated 27 May 1950 by the ICRC delegation in Israel – ICRC Archives, B G 59/I/GC, ex-841.
from Gaza to Jordan or vice versa. Such activities continued into the first half of 1951, when 157 people were transferred and thus reunited with their families.\footnote{Note dated 24 January 1951 by P. Gaillard – ICRC Archives, B AG 252 (171). \textit{ICRC Annual Report 1950}, p. 67, and \textit{ICRC Annual Report 1951}, p. 63.}

\textit{Arab civilian infiltrators}

We have seen that the ICRC was able to visit Israeli civilians interned for illegally crossing the border into Jordan, where they received the same treatment as prisoners of war.

The ICRC also tried to extend its protection to Arab civilians who had entered Israel illegally from Arab Palestine or neighbouring countries. Although some of them did engage in looting and carry out attacks, many crossed the lines in order to return to their homes, visit family or check what was left of their property. These infiltrators were generally sent back to Arab territory shortly after their arrest, although some were held in detention for weeks or even months before being expelled. As they benefited from no other form of protection, the delegates asked to visit those detained or, at the very least, to be informed of their arrest.\footnote{Minutes of the meetings of the Delegations Commission held on 21 September and 9 November 1949 – ICRC Archives, A PV. Instructions of 23 September 1949 for the Tel Aviv delegation – ICRC Archives, B G 59/1/GC, ex-841.}

On 16 November 1949, they visited Qatra camp – named after a former Arab village on the road between Tel Aviv and Gaza – where there were 86 Arab detainees. The camp was closed down in February 1950, after the repatriation under ICRC auspices of 36 detainees, the rest having been deported by the Israeli authorities without regard to their place of origin.\footnote{Report on the visit to the camp for Arab infiltrators at Qatra, 16 November 1949. Letter of 5 December 1949 from the ICRC delegation in Jerusalem to the Jordanian authorities in Jerusalem. Note from the Jerusalem delegation to the ICRC delegation in Israel dated 15 December 1949. Letter of 14 March 1950 from J. Munier to Moshe Sharett – ICRC Archives B G 59/1/GC, ex-841.}

After that, infiltrators were held temporarily, until their deportation, in detention facilities located at the headquarters of the military governorates.\footnote{Letter of 6 April 1950 from the Israeli foreign minister to the ICRC delegate in Israel – ICRC Archives, B G 59/1/GC, ex-841.}

On 31 May 1950, a new incident caused public outrage: some 120 Arab infiltrators – including women and children – were led, blindfolded, into the Negev Desert, where they were released and sent running under gunfire. Around 70 of them managed to return to Jordan in a pitiful state, while the rest were never seen or heard of again.\footnote{Note from the delegation in Jordan to the delegation in Israel, dated 12 June 1950, and Note No. 35 from the Jordan delegation to the ICRC plus annexes, dated 13 June 1950 – ICRC Archives, B G 59/1/GC, ex-841.}

The ICRC delegation sent a letter to the Israeli prime minister urging him, in accordance with the principles of the new Geneva Convention of 12 August 1949 relative to the Protection of Civilians in Time of War, which Israel had signed but which had not yet entered into force, to:
– appoint an authority to be responsible for the question of infiltrators;
– inform this Delegation [the delegation of the ICRC in Israel] of the capture of any infiltrators;
– grant us authorization to visit the infiltrators wherever they may be;
– repatriate the infiltrators to the place they came from, via the normal channels and in our presence.205

The ICRC delegation received no reply from the Israeli prime minister. However, in mid-July, the Israeli General Staff informed it, through the intermediary of the Ministry of Foreign Affairs, that for security reasons no visits to places of detention holding infiltrators could be authorized.206 The Israeli authorities also rejected the few requests for news about Arab civilian infiltrators forwarded by the ICRC, as they considered them to be the remit of the mixed armistice commissions and not the ICRC.207 The delegates gathered from their different contacts with the Israeli authorities that the latter were increasingly irritated by the ICRC’s representations on behalf of infiltrators and that this – combined with the fact that the organization was becoming a troublesome witness to the treatment of the Arab minority in Israel – probably contributed to their wish to see the organization end its work in the country. The ICRC delegation nonetheless attempted to raise the matter with the authorities one last time, in April 1951, but also in vain.208

Material relief for the victims

The relief work carried out by the ICRC delegation took on different forms.209 One can distinguish between (1) that carried out using local donations, received from the countries taking part in the conflict; (2) that resulting from the appeals for international aid launched first by the ICRC and then jointly with the League of Red Cross Societies; and (3) the relief scheme for the poor of Jerusalem.

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206 Note No. 359 by the delegation in Israel, plus annex, dated 14 July 1950 – ICRC Archives, B G 59/I/GC, ex-841. Minutes of the meeting of the Commission for External Activities held on 23 August 1950 – ICRC Archives, A PV.
207 Note No. 446 from the delegation in Israel to the ICRC, dated 22 November 1950 – ICRC Archives, B G 59/I/GC, ex841. Minutes of the meeting of the Commission for External Activities held on 22 November 1950 – ICRC Archives, A PV.
209 For more on the activities of the ICRC Commissariat for Relief to Palestine Refugees within the framework of United Nations Relief for Palestine Refugees (UNRPR), see pp. 458 ff. below.
Initially, from April to July 1948, the delegates had to rely on relief from local donations. These came from the authorities, different associations and families who handed over aid, often at the delegates’ instigation, intended mainly for hospitals and clinics, prisoners of war and civilians who had fallen into enemy hands. Over 1,000 tonnes of relief were thus received, transported across the lines and distributed by the delegates in 1948.

Apart from the relief convoys for prisoners of war, the main operations involved the delivery of supplies to Arab relief centres in Jaffa, Haifa and Acre (200 tonnes of food) and Israeli hospitals in the new city of Jerusalem (212 tonnes of relief) in June and July 1948.\footnote{General report by J. de Reynier, cited above. Notes by F. Horneffer for a planned publication on the ICRC and relief for Palestine refugees – ICRC Archives, B G 59/1/GC/E, ex830 and ex-853.}

It should be noted that Article 8 of the truce agreement, concluded on 9 June under the auspices of the UN mediator, envisaged a role for the ICRC in re-supplying Jerusalem, namely: “Relief for the populations of both parties which have seriously suffered from the fighting, such as Jaffa and Jerusalem, shall be distributed by the ICRC in such a way that the reserve stocks of essential commodities shall be practically the same at the end as at the beginning of the truce.”\footnote{English Supplement, RICR, Vol. I, No. 8, August 1948, p. 132.} In reality, though, supplying Jerusalem meant supplying the new Jewish city, one quarter of which was made up of fighting forces. The ICRC delegation, which had not been consulted, considered that the principle of neutrality prevented it from participating in bringing supplies to a population that was intermingled with fighters, and this activity was finally carried out under the supervision of UN observers. On the other hand, at the request of the Israeli authorities, the delegation agreed to assist the hospitals of Jerusalem and organized convoys of food and medicines for them. In parallel, it delivered food to Arab civilians in Jaffa, Haifa and Acre.\footnote{Monthly report for June 1948 by J. de Reynier. Telegram of 16 June 1948 from J. de Reynier to the ICRC via the US Consulate. Telegram of 18 June 1948 from the ICRC to J. de Reynier – ICRC Archives, B G 59/1/GC, ex-830.}

Nonetheless, some people felt that ICRC assistance for hospitals in Jerusalem was a unilateral act in support of the Jewish population. This prompted the ICRC delegation to publish a statement on 2 July in all the Arab capitals and in Arab Palestine reiterating the principles guiding its action.\footnote{English Supplement, RICR, Vol. I, No. 8, August 1948, pp. 132–133. Note from P. Gaillard to the ICRC dated 3 July 1948 – ICRC Archives, B G 59/1/GC, ex-829.}

After that, the delegates continued organizing the passage of relief convoys across the lines, in agreement with the relevant authorities, until the end of ICRC operations.
Relief work resulting from international aid

The appeal sent on 12 May 1948 by the ICRC to a number of National Red Cross Societies and relief organizations was renewed four times, on 3 June, 24 June, 14 July and 16 August 1948.

As soon as the first aid shipments were announced, the ICRC dispatched a relief delegate to the field in order to resolve questions such as the choice of port of discharge, where to store the goods and how to transport them to their final destination, and to establish procedures for monitoring their distribution. The port of Beirut was selected, as the only one in the region to offer sufficient security guarantees.214

The first relief shipment reached Beirut at the end of July. It comprised 7 tonnes of medicines from the American Red Cross, which the delegation distributed at a time when the Arab side had completely run out of medical supplies.

At the start, priority was given to providing relief to hospitals, the safety zones and prisoners of war. In its appeal of 16 August, the ICRC specifically requested food and clothing for the refugees. However it made clear that the scale of the needs was such that it could not help everyone, unless it were given the necessary resources.215

At the same time, the UN mediator for Palestine, Count Bernadotte, decided to complement his political action with relief work for the refugees. He pleaded their case before the representatives of the governments and National Societies meeting in Stockholm in late August at the 17th International Conference of the Red Cross, which he was chairing in his capacity as president of the Swedish Red Cross. The International Conference adopted resolution 43, titled “Relief Work in the Middle East”, which urged “all Governments, and all National Societies to do their utmost through normal governmental and Red Cross channels to alleviate the suffering of the victims of hostilities, irrespective of race, creed or political status”.216

Following this resolution and discussions held in Stockholm between Count Bernadotte, the chairman of the Board of Governors of the League, Basil O’Connor, and the ICRC president, Paul Ruegger, the ICRC and the League reached an agreement aimed at coordinating their relief efforts for civilian victims in the Middle East, according to which: “the International Committee of the Red Cross will, in regions where there is no national Red Cross or Red Crescent Society, and where a neutral intermediary is necessary, as is at present the case for Palestine, be alone responsible for reception and distribution. In regions where there is a national Red

214 Minutes of the meeting of the Bureau held on 2 June and 16 June 1948 and of the plenary meeting of the Committee held on 18 November 1948 – ICRC Archives, A PV.


Cross or Red Crescent Society, the League alone will be responsible for coordinating the dispatch and distribution of relief between the donor and recipient Societies.”

The ICRC had addressed its appeal of 12 May 1948 directly to the National Societies, based on Article 7 of the Statutes of the International Red Cross, without going through the intermediary of the League, to the latter’s dissatisfaction. In so doing, the ICRC had sought to shore up its specific role as a neutral intermediary in time of war, civil war or unrest and to prevent all confusion, in the minds of the National Societies, as to the respective responsibilities of the two organizations, at a time when the ICRC’s role was being questioned within the International Red Cross. This approach was also motivated by the fact that no recognized National Society existed in the different areas of Palestine that could be relied on to receive and distribute the relief impartially. Shifting frontlines and the difficulty of distinguishing between combatants and non-combatants constituted further impediments to the fair distribution of relief.

By late August, the situation had changed: the second truce was in place, and the UN mediator had even declared that peace reigned in Palestine. The plight of the refugees had become the most pressing problem, and it was vital to coordinate the relief provided by the International Red Cross and the UN. The agreement between the League and the ICRC was moreover fully satisfactory to the latter, as it respected the division of tasks between the two organizations.

The agreement, announced in a joint statement on 7 September, was presented as a plan of action “synchronized” with the general relief programme set up by the UN mediator in Palestine.

The first joint appeal by the ICRC and the League, in implementation of this plan, was sent to all the National Red Cross, Red Crescent and Red Lion and Sun Societies on 23 September 1948. It was followed by two circulars on 1 October and 22 November 1948.

Between 1 July 1948 and the end of March 1949, the ICRC delegation distributed a total of 628 tonnes of relief – including 109 tonnes of medicines, 430 tonnes of food, as well as clothing, tents and blankets – received in response to the appeals launched by the ICRC and then jointly with the League between 12 May and 22 November.

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217 Agreement arrived at between the International Committee of the Red Cross and the League re Red Cross relief in the Middle East, Stockholm, 31 August 1948 – ICRC Archives, B G 59/1/GC, ex-838.

218 See Introduction, p. 9.

219 Minutes of the meetings of the Bureau held on 10 April and 28 April 1948, letters of 13 April and 24 May 1948 from the League to the ICRC and replies of 28 April and 10 June 1948 from the ICRC to the League – ICRC Archives, A PV and B G 59/1/GC, ex-838. ICRC delegation to the Stockholm Conference. Internal report No. 4 – ICRC Archives, B CRI 25.

220 Minutes of the meeting of the Bureau held on 15 September 1948 – ICRC Archives, A PV.

221 Minutes of the meeting of the Bureau held on 20 September 1948 – ICRC Archives, A PV, Joint statement by the International Committee and the League of Red Cross Societies, RICR, No. 357, September 1948, p. 655.

1948. The arrival of large quantities of relief was delayed due to congestion at the port of Beirut, where UN relief was also accumulating, and to transport difficulties.\(^\text{223}\)

The scale of this relief operation may appear minimal compared with that conducted from 1 January 1949 by the ICRC Commissariat for Relief to Palestine Refugees under the umbrella of the United Nations Relief for Palestine Refugees (UNRPR). However its achievements were significant: medicines and medical equipment reached regions where supplies were completely exhausted and where, in addition to the local population, a great number of refugees and many wounded had assembled; concrete action was taken to help refugees, such as the opening of outpatient clinics, the organization of food kitchens and the distribution of food and clothing; and a first vaccination campaign was held against typhoid fever, thanks to donations from the Egyptian Red Crescent and the South African Red Cross.\(^\text{224}\)

In addition, in January and February 1949, around 3,000 Arab civilians who were besieged by Israeli troops in the Faluja pocket in the Negev received 7 tonnes of food, clothing and medicines from the delegation in Gaza, working with the UN and the Quakers.\(^\text{225}\)

**Relief scheme for the poor of Jerusalem**

Relief for destitute people in Jerusalem\(^\text{226}\) comprised the third category of ICRC assistance activities. This was conducted at the same time as, and complemented, the work of the ICRC Commissariat for Relief to Palestine Refugees.

As UNRPR stipulated that its relief was intended for refugees alone, this excluded all other victims of the Palestine conflict. Members of the local population who had fallen into extreme poverty therefore had no claim to relief from the United Nations aid programme.

From the outset, the Commissariat found itself in a particularly difficult predicament in Jerusalem. This sector comprised over 20,000 refugees and as many poor people who were in an equally precarious situation. Of these, 14,000 were residents of the old city who had lost their occupations because of the war and its consequences.


During his trip to the Middle East in February 1949, the ICRC president, Paul Ruegger, was made aware of this problem and decided to launch a relief operation independent of the Commissariat’s in order to provide food and, if possible, medical assistance to residents in need. For this, the ICRC could draw on what remained of the funds received in response to the appeals launched from 12 May 1948, which it was estimated would last for two months. Once these reserves were used up, the ICRC would have to seek new donations.

The first food distribution took place on 27 March 1949 at the Indian Hospice, where the relief was being stored. A milk distribution centre, “The Milk Drop”, and an outpatient clinic were also opened there in June.

From 27 March 1949 until the end of April 1950, a total of 25 fortnightly food distributions took place, mainly of flour, sugar, rice, oil and pulses, for an average of around 13,640 people. To start with, the Milk Drop distributed milk to some 1,300 people daily and then, from January 1950, to over 2,300. In addition to young children, the beneficiaries included expectant or nursing mothers and sick adults, including tuberculosis patients. The clinic was open for consultations each morning, while in the afternoon the nurses visited the homes of bedridden patients in the old city. Clothes, shoes, sleeping bags, toys and chocolate were also distributed on an ad hoc basis. In total, around 1,400 tonnes of goods were distributed to a value of 785,000 Swiss francs.\(^{227}\)

\(^{227}\) *ICRC Annual Report 1951, p. 61.*
Throughout its entire duration, this activity operated on a precarious basis, as it hinged on the success of the ICRC’s fundraising efforts. In addition to private individuals, donors included the Australian, Canadian and Swiss Red Cross Societies, the Iranian Red Lion and Sun and the Jewish Society for Human Service. The ICRC also contributed some of its own funds. The operation lasted for 13 months and ended on 30 April 1950, at the same time as the work of the ICRC Commissariat.

Like the Commissariat’s activities, relief work for the destitute of Jerusalem was taken over in large part by the United Nations Relief and Works Agency (UNRWA) on 1 May 1950. To do so, the new office set up by the UN agreed to relax its rules about non-refugees and to assist 11,000 people. The remaining 3,000 were taken under the wing of the Lutheran World Federation.

During his third trip to the Middle East shortly before the end of the mandate of the ICRC Commissariat, the ICRC president received a letter of thanks, in English and Arabic, from the heads of the religious communities, the mayor and public figures of Jerusalem, in appreciation of the ICRC’s assistance.

ICRC Commissariat for Relief to Palestine Refugees

In the first three months of 1948, some 30,000 Arabs, mainly from wealthy families from Jerusalem, Haifa and Jaffa, or from villages particularly affected by the fighting, left Palestine for Arab countries. But the real exodus – precipitated by the terror that seized the Arab population after the Deir Yassin massacre – began in April-May. This coincided with the collapse of Arab resistance, particularly in western and eastern Galilee, following the fall of the towns of Tiberias and Safed, and along the coastal strip, where Haifa, Jaffa and Acre came under Jewish control. By 15 May 1948, an estimated 250,000 people had fled the territory occupied by the Israelis.

The exodus continued after the general outbreak of hostilities and up to the start of the second truce on 18 July. This period was marked by the advance of Israeli forces in central Galilee, around Nazareth, and in central Palestine, with the capture of the towns of Lydda and Ramleh. It was at this point that the League of Arab States and the UN mediator for Palestine alerted the international community to the tragic plight of the refugees. From mid-August, Count Bernadotte launched appeals for aid to the United Nations Children’s Fund (UNICEF), over 50 governments and numerous relief organizations. One month later, the United Nations Disaster Relief Project (DRP) was set up to coordinate the activities of the different organizations.

228 Minutes of the working sessions of the Committee held on 28 April, 30 June, 28 July and 1 December 1949, and the meetings of the Presidential Council held on 29 September 1949, 12 January and 9 March 1950 – ICRC Archives, A PV.
229 RICR, No. 379, July 1950, p. 505 and illustration.
231 Ibid., p. 86.
already on the ground and to distribute the relief received in response to the mediator’s appeals.\textsuperscript{232} In early October 1948, the director of DRP estimated the number of refugees at 500,000.\textsuperscript{233}

The battle of the Negev, which broke out in October, uprooted even more people. Given the urgency of the situation, in particular with winter approaching, Count Bernadotte’s successor, acting mediator Ralph Bunche, brought the question of the refugees before the United Nations during its meeting of autumn 1948, held in Paris.

\textit{Framework for and creation of the Commissariat}

While the General Assembly was meeting in Paris, the UN Secretary General, Trygve Lie, sent two representatives – one of them the director of DRP – to the ICRC and the League of Red Cross Societies in Geneva on 30 October. At the time, a draft resolution was under discussion at the General Assembly regarding the allocation of significant funds to assist the Palestine refugees and the appointment of a director to coordinate this aid. Two or three voluntary organizations were to be selected to distribute the relief in the territory of the former Mandatory Palestine and in the neighbouring Arab countries. The UN representatives thus came to enquire whether the two Red Cross organizations would be prepared to act as distributing agencies, within the limits of their statutes and respecting their independence. They handed over a draft text that could, if the ICRC and League agreed, provide the basis for an accord between them and the United Nations.\textsuperscript{234}

Knowing the extreme gravity of the situation of the refugees, the ICRC was receptive to the UN’s proposal, on condition that its independence was guaranteed. It wanted to safeguard its specific role as a neutral intermediary working on behalf of the victims of the conflict. Above all, it did not want to be seen by the conflict parties as an agent of the UN and ruled out any monitoring of its activities by the UN on the ground.\textsuperscript{235}

On 10 November, the ICRC and the League jointly sent a counter-proposal to the UN secretary-general, stressing the need to protect the independence of the Red Cross and making various suggestions to ensure this.\textsuperscript{236}

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\textsuperscript{232} Under the UN Disaster Relief Project, some 3,800 tonnes of relief were handed over to the Arab governments and local refugee committees for distribution.

\textsuperscript{233} General activities report by the Commissariat for Relief to Palestine Refugees (for the period from 1 January to 31 May 1949), p. 1 – ICRC Archives, B G 59/1/GC/E.

\textsuperscript{234} Minutes of the meeting between representatives of the UN, the ICRC and the League, held on 30 October 1948, written by the ICRC on 1 November 1948 – ICRC Archives, B G 59/1/GC/E, ex-850.

\textsuperscript{235} Minutes of the meetings of the Bureau held on 2 November and 5 November 1948 – ICRC Archives, A PV.

\textsuperscript{236} Minutes of the meeting of the Bureau held on 11 November 1948 and the plenary meeting of the Committee held on 18 November 1948 – ICRC Archives, A PV. Letter of 10 November 1948 from the ICRC and the League to the United Nations secretary-general – ICRC Archives, B G 59/1/GC/E, ex-850.
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On 19 November 1948, the General Assembly voted to allocate 29.5 million US dollars – not including administrative costs – to assist 500,000 refugees over a nine-month period, from 1 December 1948 to 31 August 1949. It invited UN Member and non-Member States to provide voluntary in-kind or cash contributions as soon as possible. It asked the secretary-general to take all necessary measures to assist the Palestine refugees and to create an administrative body to this end, with the support of the relevant departments in the different governments, UN specialized agencies, UNICEF and other voluntary organizations. The ICRC and the League of Red Cross Societies were cited by name in this context, and the principle of impartiality governing their work was expressly recognized. The secretary-general was also given the task of appointing a director of the United Nations Relief for Palestine Refugees (UNRPR) to be responsible for preparing and implementing the entire assistance programme.237

The secretary-general finally asked three organizations to distribute the relief – the ICRC, the League and the American Friends Service Committee (AFSC), also known as the Quakers – with whom analogous agreements were concluded.

According to the agreement signed on 17 December 1948 between the ICRC and Stanton Griffis – the United States ambassador in Cairo, who was appointed director of UNRPR238 – the United Nations would play the role of an ordinary donor, to whom the ICRC should provide regular narrative and financial reporting. The agreement recognized the fully independent and autonomous character of the ICRC, which would undertake all distributions under its sole responsibility and would not in any way be placed in a subordinate position with respect to the UN. It was moreover understood that the ICRC would continue to act as a neutral intermediary between the parties in Palestine, especially for prisoners of war. This required that it maintain, “in the eyes of each and in all circumstances, present and future, its position outside of all political contingencies.”239 The ICRC thus obtained the guarantees that it required.

Different areas of action were assigned to the three organizations. Thus, the ICRC was to work in Israel and Arab Palestine, except for the Gaza region which was to be

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237 A/RES/212 (III).
238 From October 1949, UNRPR was managed by its deputy-director R.H.R. Parminter, following S. Griffis’ retirement.
239 According to Point 3 of the agreement: “The United Nations will, in this connection, agree to recognise the International Committee of the Red Cross as an independent and autonomous organization which undertakes to effect, under its sole responsibility, the distribution of relief supplies received from the United Nations Organizations, as donors, in the territory assigned. It is agreed and approved by the United Nations Organization that the distribution of such relief supplies effected in the field by the International Committee of the Red Cross, in complete independence, will not in any way place it in a subordinate position with respect to the United Nations (...). It is understood that the International Committee of the Red Cross must continue to act, between the parties in Palestine, as a neutral intermediary, especially for prisoners of war. This requires that it maintain in the eyes of each and in all circumstances, present and future, its position outside of all political contingencies.” Agreement between the Director of United Nations Relief for Palestine Refugees and the President of the International Committee of the Red Cross, CP 441 b – ICRC Archives, B G 59/1/GC/E, ex-850.
covered by AFSC. The League was to operate in Syria, Iraq, Lebanon and Transjordan, where it was already present.

The work was to involve setting up camps for the homeless and distributing food to all the refugees and blankets and clothing to those in greatest need. A health service was to be established to treat the sick and take measures to prevent epidemics. It was also planned that, from 1 February 1949, the three organizations would distribute relief from UNICEF for children and expectant and nursing mothers. A school programme, funded by UNESCO, was to be set up at a later date.

To fulfil this mandate, the ICRC set up the Commissariat for Relief to Palestine Refugees. It appointed as its head Alfred Escher, the first counsellor at the Swiss Legation in London and a former colleague of President Ruegger when he was Swiss ambassador in London. By establishing a completely separate entity, the ICRC sought to mark, vis-a-vis the parties to the conflict, the independence of its delegation as it pursued its traditional activities.\footnote{Minutes of the meeting of the Bureau held on 25 November 1948 – ICRC Archives, A PV. Note of 24 November 1948, unsigned, on the role of the ICRC in providing relief to the refugees in Palestine – ICRC Archives, B G 59/1/GC/E, ex-850.}

\textit{Organization of the Commissariat and logistics}

In the first half of December 1948, the head of the Commissariat conducted a ten-day visit to Arab Palestine, Israel and the surrounding Arab countries in order to lay the practical foundations for the work ahead. He was accompanied by a medical expert, Dr Vannotti, professor at the faculty of medicine at Lausanne University,\footnote{Appointed a member of the ICRC in May 1949.} and by a specialist on setting up camps.\footnote{For more information on this subject, see report by A. Escher on his visit to Palestine, appended to the minutes of the meeting of the Bureau held on 16 December 1948 – ICRC Archives, A PV. Medical report by Prof. A. Vannotti on aid to refugees in Palestine, dated 9 December 1948, and report by Major Lüscher on the organization of camps, dated 20 December 1948 – ICRC Archives, B G 59/1/GC/E, ex-860.}

On his return to Beirut on 29 December, accompanied by 14 delegates and two nurses, Escher faced a dilemma: “either to set up well-organized machinery and let the work wait until everything was in place, or knuckle down to work at once and formalize the set-up afterwards, as and when possible (…). The fact that human lives were at stake meant we had no choice: we sent our delegates into the field on 2 and 3 January, the first UNRPR flour consignments left Beirut on 6 January, and the first distributions in the Arab zone began on 10 January.”\footnote{General activities report by the Commissariat for Relief to Palestine Refugees (covering 1 January to 30 May 1949), pp. 4–5 – ICRC Archives, B G 59/1/GC/E.}

The Commissariat opened two main offices: one in Beirut, the leading port of entry for relief from overseas – where UNRPR, UNICEF, the League and AFSC were also based – and in Haifa, the second such port of entry. The Beirut office was in
charge of six regional stations set up in Arab Palestine, which covered the sectors of: Jericho and the right bank of the Jordan Valley; Ramallah; Nablus, with the sub-sector of Jenin and Tulkarem; Jerusalem old city and outskirts; Bethlehem; and Hebron. The Haifa office covered the territory of Israel. Each station was run by a head of region and comprised several delegates, other expatriate staff and numerous locally recruited staff. Many of these were themselves refugees, who thus found work and earned a wage. The expatriate staff were Swiss, except for a medical team sent by the Danish Red Cross and a team from AFSC, which distributed relief to refugees from Acre on behalf of the Commissariat.

The expatriate staff grew from 24 on 1 January 1949 to 94 by the end of the year—that is, 45 delegates and other expatriates, 15 doctors, 29 nurses and 5 laboratory staff. When the operation ended, on 30 April 1950, there were 89 expatriates. Meanwhile, there were 2,637 local staff at the end of 1949 and 3,395—including 650 medical staff—at the end of the operation.244

It was decided that UNRPR should deliver the bulk of the relief to Beirut. The Commissariat would then hire trucking companies to transport the goods to the main warehouses in Arab Palestine. This turned out to be the best decision despite the numerous hurdles, which included the distance (over 500 kilometres across the Lebanese mountains, then via Damascus and Amman), the tough climatic conditions in winter, the many customs controls and the difficult economic and political situation overall. The Commissariat then had to take charge of transporting the supplies itself from Jerusalem to Bethlehem and Hebron, as there was only a narrow and dangerous military road in this sector which the truckers refused to take. It also used locally hired trucks or its own fleet of vehicles, which numbered some 100 by the end of December 1949, in order to convey the goods from the warehouses to the different distribution points.

Israel, meanwhile, could not be reached by road from Beirut. The Commissariat persuaded the relevant authorities to open a sea route from Beirut to Haifa, after which three sailing ships, chartered by the Commissariat and flying the Red Cross flag, were able to transport supplies to Israel. Once on Israeli territory, the goods were taken to the various distribution points, as in the Arab zone, using trucks, which were provided by the Israeli authorities.

By the end of the operation, in April 1950, the ships shuttling between Beirut and Haifa had covered a distance equivalent to crossing the Pacific from Yokohama to San Francisco and back. As for the trucks, they had driven some 10 million kilometres, the same as going 250 times around the world.245

244 These statistics are drawn from the tables found in the four general reports by the Commissariat for Relief to Palestine Refugees, covering the periods: 1 January to 31 May 1949; 1 June to 30 September 1949; 1 October to 31 December 1949; and 1 January to 30 April 1950 (hereinafter ICRC Commissariat Reports I, II, III and IV) – ICRC Archives, B G 59/1/GC/E. Here, Commissariat Reports II, p. 7, III, pp. 7–8, and IV, p. 7.

245 The International Committee of the Red Cross and Relief for Palestine Refugees, draft publication by F. Horneffer (unpublished) – ICRC Archives, B G 59/1/GC/E, ex-853.
Efforts to count the refugees

In December 1948, the director of the UN Disaster Relief Project estimated the total number of refugees at 760,000, including 300,000 in the regions assigned to the ICRC. By the end of May 1949, however, the Commissariat was assisting nearly 477,000 people, around 40% of whom were children. After successive adjustments, UNRPR increased the number of relief rations allocated to the ICRC to 395,000 (out of a total of 940,000 for the three organizations – that is, 42%). This still fell short of the number of refugees registered on the Commissariat’s lists, namely 458,000 in December 1949 and 416,000 in April 1950.

In February 1949, the director of UNRPR warned the three distributing organizations against the exaggeration of beneficiary lists by host municipalities and local relief committees hoping to receive as much international aid as possible. In a memorandum sent to them on 2 February, he defined a refugee as “a person who has left his home because of the happenings or the consequences of the war”, and who, as an additional condition, was “actually indigent”. The following were thus to be excluded: (1) ordinary Bedouin nomads and (2) refugees with their own means, as well as (3) poor villagers and (4) residents who had lost the possibility to work, as these last two categories were the responsibility of the municipalities and not the relief programmes for refugees.

The Commissariat realized, however, that it would be extremely difficult to apply these criteria and to keep a tight check, as the reality was far more complex. Thus, the Bedouin, often driven from clearly defined areas, had lost their fields, pastureland and livestock. The number of well-off refugees was decreasing as time passed. The destitute, whose ranks had swollen in the wake of the economic collapse, were a crushing burden for the municipalities, which could not cope. Many villages had been partially destroyed or were empty because they were located in no-man’s-land. Following the armistice between Israel and Jordan on 3 April 1949 and the resulting changes in the path of the demarcation line, many villagers were cut off from their fields, depriving them of their means of livelihood. These people thus constituted a new class of war victim, the “disaster-stricken”, in addition to the refugees. On top of these came the “destitute”, that is, the thousands of people living in Arab Palestine who used to work in areas that were now part of Israel and who had, therefore, lost their jobs. The Commissariat tried to compile a register of refugees excluding any who were clearly not eligible, but the task was difficult. It also came up against the combined economic and political interests generated by the massive influx of aid and the fact that the refugees had become a clientele fought over by the different political factions.\footnote{Draft publication by F. Horneffer, cited above.}

In fact, the distinction between real refugees and other war victims was never accepted by the local Palestinian and Jordanian authorities. More and more obstacles were placed in the way of the Commissariat’s efforts to count the refugees, thereby delaying the drawing up of lists of beneficiaries entitled to aid according to the UN’s
criteria. Moreover, given the urgency of the needs, the Commissariat did not entirely end its assistance to the disaster-stricken, destitute and other needy. It continued to distribute half-rations of food or intermittent aid to them. In April 1950, around 30,000 people were being thus assisted, in addition to the 416,000 refugees actually registered in the regions covered by the ICRC.247

Extension of the Commissariat’s work

It was soon clear to the three implementing organizations that there would be no rapid solution to the Palestine refugee problem, given the lack of political or economic progress in the Middle East. They shared their concern with the relevant UN authorities and urged them to examine in good time what could be done for the refugees to prepare in time for the winter of 1949–50. In May 1949, they offered to extend their activities beyond the original deadline of 30 August 1949, on condition that the aid provided – food rations, medical assistance, tents and clothing – not fall below a minimum level and that an effort be made to settle the refugees in definitive homes. As the UN General Assembly would not be meeting until the end of September and therefore could not make a new decision in time, UNRPR tried to stretch its funds as much possible in order to continue the operation.248

After receiving a satisfactory response from the UN secretary-general on 5 October 1949, following repeated representations, the ICRC decided to continue its activities throughout the entire winter of 1949–1950, as did the League and AFSC.249

Meanwhile, the United Nations Economic Survey Mission for the Middle East (also known as the Clapp Mission, after its chairman Gordon R. Clapp) handed in its report. This body had been set up on 23 August 1949 by the United Nations Conciliation Commission for Palestine to examine the economic situation and consequences of the hostilities in the Middle East. It highlighted its concern that supplying relief did not, in the long term, contribute to solving the refugee question. As a return to their homes or resettlement elsewhere were difficult, it recommended gradually reducing the aid given and setting up public works so that the refugees could earn

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247 ICRC Commissariat Reports I, pp. 22 ff., and IV, pp. 22 ff. English Supplement, RICR, Vol. III, No. 1, January 1950, pp. 21 ff. RICR, No. 379, July 1950, pp. 488 ff. See also the report by the president on his trip to the Middle East, 3 April 1950, annexed to the minutes of the working session of the Committee held on 30 March 1950 – ICRC Archives, A PV.


a living and become self-sustaining. To this end, it suggested creating a new UN agency – which would work in close cooperation with the Middle Eastern governments – while extending, through the first quarter of 1950, the relief programme run by the three organizations under the aegis of UNRPR, albeit with reduced funding.

The importance of the matter prompted the ICRC president, Paul Ruegger, and the commissioner for refugees, Alfred Escher, to travel to Lake Success, New York, where the president spoke before the UN Assembly’s Special Political Committee on 25 November:

> It is of course not up to me, not up to the International Red Cross, to voice an opinion regarding the different proposals made for the ‘resettlement’ of the refugees. (...) However, there is a part of the report submitted to you on which the International Committee of the Red Cross has the right, and even the duty, to speak out, and to do so without delay. It is the part dealing with the continuation throughout the first quarter of 1950 of the relief work conducted by the organizations already on the spot. The report proposes funding which, given the increased difficulties, would be limited according to a system that would reduce by one third the volume of the aid distributed or, more precisely, would deprive one person out of every three of the rations allocated to him up to now, and this in the middle of winter, when there are not even enough tents to go around.

As regards several large regions where the International Committee of the Red Cross is operating, I am sure that I am not exaggerating when I say here that the sudden and significant reduction in the number of people aided could spark renewed unrest. Whereas one of the main aims given for the generous action undertaken by the United Nations is maintaining peace, we would risk at the eleventh hour – just before the gradual implementation of the UN resettlement plan – provoking a new outbreak of disturbances, which we are seeking to prevent (...).

Already in spring this year, riots broke out in Jerusalem itself as destitute people again clamoured for food rations that the representatives of the International Committee of the Red Cross had reserved strictly for ‘refugees’, that is people who had come from outside. The International Committee has done everything in its power to act in accordance with the Assembly’s decision not to give UN food rations to ‘non-refugees’.

President Ruegger went on to explain that, in order to assist destitute people in Jerusalem, the ICRC had launched a separate relief operation for non-refugees, for the most part with its own funds.

In conclusion, and in light of the ongoing discussions about extending the existing agreements between the UN and the three operating agencies, the ICRC president urged “the Commission, the Assembly, not to tie the hands of its negotiating bodies

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250 Minutes of the working session of the Committee held on 17 November 1949 and the meeting of the Presidential Council held on 25 November 1949 – ICRC Archives, A PV.
with instructions that would limit from the outset the number of food rations allocated by the UN to the Palestine refugees.\footnote{Speech made at Lake Success by P. Ruegger, ICRC president, before the UN Assembly’s Special Political Committee on 25 November 1949 – ICRC Archives, B G 59/1/GC/E, ex-852. \textit{RlCR}, No. 372, December 1949, pp. 989–995.}

In the end, a sufficiently flexible solution was found which, while underscoring the need to reduce the number of refugees registered, did not risk putting the ICRC Commissariat and the other organizations in a difficult situation. Thus, Resolution 302 (IV), which was adopted by the UN General Assembly on 8 December 1949 and established the UN Relief and Works Agency for Palestine Refugees in the Near East (UNRWA), laid down in paragraph 11 that:

\begin{quote}
The General Assembly continues the United Nations Relief for Palestine Refugees as established under General Assembly resolution 212 (III) until 1 April 1950, or until such date thereafter as the transfer referred to in paragraph 12 is affected, and requests the Secretary-General in consultation with the operating agencies to continue the endeavour to reduce the numbers of rations by progressive stages in the light of the findings and recommendations of the Economic Survey Mission.\footnote{ICRC Commissariat Report III, p. 90.}
\end{quote}

In the end, on the request of the UN secretary-general, the three implementing organizations agreed to extend their work for one last time until 30 April 1950.\footnote{Minutes of the meeting of the Presidential Council held on 9 February 1950 – ICRC Archives, A PV.}

In March 1950, the ICRC president made a third trip to the Middle East in order to oversee the closing of the Commissariat’s activities and their handover to UNRWA.

\textit{Results of the Commissariat’s work}

From the outset, the Commissariat sought to increase the quantity and quality of the food distributed. From an average of 1,200 calories per person per day in the early months, the food ration had gone up to 1,350 by the end of 1949. However, it never reached the theoretical intake of 1,500 calories established by UNRPR and UNICEF, mainly because of delivery delays and the discrepancy between the number of rations allocated to the Commissariat and the number of people actually being assisted. At the end of the operation, the refugees’ nutritional status was nonetheless considered satisfactory.\footnote{Report by Prof. A. Vannotti, annexed to the minutes of the plenary meeting of the Committee held on 19 January 1950 – ICRC Archives, A PV.}

In total, the Commissariat distributed over 76,000 tonnes of food – flour, pulses, oil, sugar, dried fruit, canned fish and meat, cod-liver oil, powdered milk, margarine, rice, potatoes and onions – worth nearly 43 million Swiss francs. To this end, it opened 215 food and 172 milk distribution centres, where 20 million litres of milk
were prepared using powdered milk provided by UNICEF. One tenth of this relief went to refugees, mainly Arabs but also Jews, in Israel.255

To start with, there was only one camp in the regions covered by the ICRC, in Jericho. But as more tents arrived, the Commissariat gradually opened new ones. Thus, by end September 1949 there were 20 camps (for 56,400 refugees), by end December 1949 there were 26 camps (for 67,700 refugees) and on 30 April 1950 there were 36 camps (for 76,150 refugees). It was only in December 1949 and January 1950 that the refugees received the last tents, clothing and shoes, thanks to large donations from the International Refugee Organization (IRO) and the Superior Council for Relief to Palestine Refugees in Cairo.256

The Commissariat’s medical service was set up in January 1949, following the recommendations of Professor Vannotti. It, too, stepped up its activities according to the financial resources available. The first priority was improving the outpatient clinics already established by ICRC nurses and opening new ones in the towns and camps with the largest number of refugees, supported by mobile clinics that travelled to remote villages and smaller camps. The clinics were particularly instrumental in diagnosing serious and, above all, contagious diseases and referring the sick to hospitals.

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33. Palestine War, 1950. The ICRC on the road from Jerusalem to Jericho.
© ICRC (DR)/Jean Mohr (ICRC/CID, V P PS N-00078)
As there were not enough hospitals, the Commissariat set up new ones or refurbished existing ones, taking over responsibility for their management. It provided others with funding, on condition that they reserve beds for refugees. It also established a central pharmacy, local medicine stocks and laboratories, as well as child-care centres and nurseries, where special consultations were held for infants and young children, and the mothers could learn the basic principles of child care and hygiene.

At the end of April 1950, there were 36 outpatient clinics, including 12 mobile ones, serving 37 consultation points, and 14 child-care centres and 4 nurseries. Six hospitals, two paediatric clinics, two central maternity hospitals and several camp maternity hospitals, with a total of 700 beds, were run entirely by the ICRC. The largest hospital was the Augusta Victoria in Jerusalem, with 340 beds, two operating theatres, X-ray facilities, a central laboratory equipped for clinical, bacterial-parasitological and serological analyses, and isolation wards for infectious patients. The other hospitals run by the Commissariat were in Bethany, Hebron, Nablus, Qalqilya and Tulkarem.

In total, over 1.3 million consultations were given and nearly 6,000 adults and children were treated in the ICRC hospitals.

In addition to curative medicine, the Commissariat put much effort into preventive action. The appalling sanitary conditions and weakened resistance of the refugees provided an ideal breeding ground for epidemics. In March 1949 it set up a sanitation service, which was to be in charge of: road-sweeping and cleaning in the camps; building and maintaining latrines; laying water pipes, monitoring water sources and disinfecting the water; and teaching people the basic rules of hygiene. During campaigns against malaria and exanthematous typhus, significant resources were mobilized to fight against insect vectors and to disinfect the camps and villages as well as the refugees. Vaccination programmes were launched in which 320,000 people were inoculated against smallpox, 225,000 against typhoid and paratyphoid, 36,000 against exanthematous typhus, 63,000 against tuberculosis and 21,000 against diphtheria. Special attention was also paid to eye infections, particularly prevalent in this part of the world. Thanks to these measures, and although there was considerable cause for fear, no epidemics broke out.

On the educational front, in autumn 1949 the Commissariat began supporting the schools already set up by the Arab Development Society and the YMCA, for example in Jericho, and opening new ones itself, with backing from UNESCO. By the end of April 1950, 28 schools were in operation in 24 camps in the regions of Bethlehem.

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257 General activities report by the medical service of the ICRC Commissariat for Relief to Palestine Refugees, produced in November 1950 by Dr R. Sansonnens – ICRC Archives, B G 59/1/GC/E, ex-855.

Hebron, Jericho, Nablus and Ramallah, as well as in the town of Nablus and the old city of Jerusalem, with a total of around 9,700 children entrusted to 162 teachers.  

Meanwhile, sewing centres were set up where women refugees could make clothes, using large batches of fabric provided by UNRPR. Over a four-month period, the centres produced more than 82,000 garments, while 200 women took home a wage and 300 started apprenticeships.

Towards the end of its mandate, the Commissariat organized craft workshops in each region to introduce young people to the trades of carpenter, shoemaker, stonemason and tinsmith. In addition to the educational value of the workshops, the Commissariat tried to turn them into small businesses that could contribute to the establishment of the camps and, with time, take care of their maintenance. By the end of April 1950, 15 training workshops were in operation, run by around 20 craftsmen who were refugees themselves, and with 270 trainees.

In total, from 1 January 1949 to 30 April 1950, the ICRC Commissariat distributed over 78,000 tonnes of relief – including 76,000 tonnes of food, 232 tonnes of medicines and other medical supplies, tents and fuel, 504,000 blankets and sleeping bags, 180,000 items of clothing and school materials – worth a total of 54.5 million Swiss francs. In addition to UNRPR, UNICEF, WHO, UNESCO and the IRO, other organizations and private donors contributed – such as Church World Service, the Council of British Societies for Relief Abroad, the Jewish Society for Human Service (London), the Lutheran World Federation, the Belgian “Palestine” Mission, the Superior Council for Relief to Palestine Refugees (Cairo), the YMCA and King Abdullah of Jordan – as did the Turkish government and the National Red Cross Societies of Belgium, Canada, Denmark, Finland, India, Liechtenstein, South Africa, Sweden, the United Kingdom and the United States.

UNRWA started operating on 1 May 1950, under the leadership of Major General Howard Kennedy, a Canadian national.

The above, mainly quantitative, results of the Commissariat’s action are drawn primarily from its four general reports and the general report by its medical

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259 ICRC Commissariat Report IV, pp. 80 ff. and 90.
263 For an overview of the activities of the UNRPR, see the above-cited work by Rony E. Gabbay. As for the League of Red Cross Societies, see the Report of the Relief Operation in behalf of the Palestine Refugees, conducted by the Middle East Commission of the League of Red Cross Societies in conjunction with the United Nations Relief for Palestine Refugees, 1949–1950, League of Red Cross Societies, Geneva, 1950.
264 Given the lack of a solution to the Palestine refugee problem, UNRWA’s mandate has been renewed repeatedly since then. At the end of March 2005, according to figures published on the agency’s official website, over 4.2 million Palestinian refugees were registered and being assisted by UNRWA in Jordan, Lebanon, Syria, the West Bank and the Gaza Strip.
265 See footnote 244, p. 462 above.
service. They are not the fruit of an exhaustive, or qualitative, examination of its work, which would have gone beyond the scope of the present study.

According to the ICRC medical adviser Dr Roland Marti, who was sent to the field towards the end of the Commissariat’s mandate to see what lessons could be learned, many misunderstandings could have been avoided if the Commissariat’s management, which was in Beirut, had not been so far removed from the action. It also seems that the delegates and doctors, many of whom were on their first ICRC posting, were not always selected carefully enough, or were insufficiently supervised, even though some of them did exemplary work in a difficult context. Despite the mistakes, Dr Marti concluded that the results were “nonetheless positive”, and the fact that the refugees were fed was, in itself, a “relative medical success”.

Conclusion

The ICRC’s work during the Palestine War can be seen to have had largely positive results: it was able to play its role as neutral intermediary both during the civil war between Jewish and Arab Palestinians that followed the UN vote on the partition plan (29 November 1947) – even though Article 3, common to the four Geneva Conventions of 1949 and applicable to internal conflicts, had not yet been adopted – and during the international Arab-Israeli conflict, which was sparked by the proclamation of the State of Israel (14 May, 1948). It also managed to provide humanitarian protection and assistance to all victims, both civilian and military, at a time when the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War had not yet entered into force. Its services were accepted by all the belligerents, whether party to the Geneva Conventions or not, which was not the case in other conflicts at the time, in particular those overshadowed by the Cold War. Moreover, especially in the early days of the operation, it was an opportunity for the ICRC to help the survivors of Nazi persecution – in particular the immigrants aboard the Exodus 47 – and, more generally, the Jewish people, for whom it had managed to do so little during the Second World War.

These achievements were probably helped by the fact that the belligerents, at least at the beginning of the Palestine War, as well as most of the major powers concerned and the UN, looked favourably upon the action of a neutral intermediary able to provide humanitarian protection and assistance to the population and curb the violence, particularly in Jerusalem, while no political settlement was in sight concerning the future of Palestine. Any successes were also in large part thanks to the initiative and courage of the delegates and the ICRC’s new president, who threw themselves into their work and did not hesitate to take on new responsibilities in order to save human lives, regardless of the dangers and difficulties.

266 See footnote 257, p. 469 above.
267 Note from Dr Marti to J. Chenevière, dated 12 March 1950 – ICRC Archives, A CL 15.08.02.
Indeed, the ICRC’s work saved the lives and eased the plight of thousands of people. These included the wounded and sick (through the protection and re-supplying of hospitals, the care provided by the nurses and the evacuation of the wounded from between the lines), prisoners of war (through the exchange of lists, visits to camps, delivery of relief and family news and repatriations), the civilian population (safety zones, transfers of civilians across the lines for security reasons, restoring of family links and distribution of relief to the poorest) and refugees. The ICRC was, however, able to do nothing for one category of people, Arab civilian infiltrators imprisoned in Israel, because of the flat refusal by the Israeli authorities for security reasons.

Against the expectations of the ICRC head of delegation, the safety zones did not shelter thousands of refugees but about 200 at most. Located at the heart of the fighting, safety zone I (the King David Hotel, YMCA building and Terra Sancta convent) nonetheless helped, in his view, to save the lives of thousands of people by preventing shooting from this point onto the old city of Jerusalem. As for safety zone II (Government House), it was useful as a place for evacuating people and transporting relief and mail across the lines between the Arab and Israeli sides. The zones’ strategic location also had the disadvantage, however, of making them important objectives, and their neutrality was violated as the political and military situation deteriorated.

The safety zones nonetheless served as a real case study at a time when the new Geneva Conventions were being drawn up, which is probably why they were maintained – in particular Government House – despite the small number of people that they actually sheltered and the repeated violations. A draft article already existed that envisaged the creation of hospital and safety zones and localities giving permanent shelter in areas behind the front, which became Article 14 of the Fourth Geneva Convention of 1949. However, the safety zones in Jerusalem had been set up somewhat provisionally at the very scene of the fighting. This experience prompted the ICRC to make provision for a new type of refuge area, in addition to hospital and safety zones, namely neutralized zones, to be established temporarily in the very place where fighting was taking place. This gave rise to Article 15 of the Fourth Geneva Convention of 1949.268

The plan to neutralize Jerusalem under the auspices of the ICRC did not ultimately materialize. One may wonder whether this should be regretted, as the plan required resources that the ICRC did not have. It also risked dragging the organization into unfamiliar waters, given the political implications. At a meeting of the UN Security Council on 12 May 1948, the Soviet delegate Andrei Gromyko had, unlike the other delegates, opposed giving the ICRC administrative or supervisory functions in Jerusalem. In his view, this would have amounted to handing government of the Holy City to one or two countries which, behind the mask of the Red

Cross, would pursue their own objectives. The Soviet representative had no objections, however, to the Red Cross fulfilling its traditional humanitarian tasks in Palestine.\footnote{The Russian delegate declared the idea of making the Red Cross ‘boss’ of Jerusalem would be tantamount to giving the government of Jerusalem to one or two countries that could then, under the mask of the Red Cross, realize their own objectives in the Holy City. Mr. Gromyko added that he had no objections to the Red Cross fulfilling its traditional humanitarian tasks in Palestine.” Note of 13 May 1948 from the ICRC delegation to the United Nations, Lake Success – ICRC Archives, B G 59/1/GC, ex-838.}

Although the ICRC delegation’s work for refugees may seem negligible compared to that subsequently done by the ICRC Commissariat for Relief to Palestine Refugees, it helped lay the foundations for the latter thanks to the contacts already established, the system set up for its own relief distributions and the experience gained by its delegates and nurses, many of whom went on to work for the Commissariat.

As for the work of the Commissariat, it was the first time that the ICRC had carried out an operation of this kind. It drew some criticism, especially from some of the doctors working in the field who, facing urgent needs on the ground, blamed the Commissariat for its indecisiveness and bureaucracy, not to mention some misguided decisions.

Despite the obstacles encountered, however, the results of the Commissariat’s work were on the whole positive. No epidemics broke out on its watch, the nutritional and health status of the refugees was deemed satisfactory, and the ICRC was able to hand over well-functioning hospitals, clinics and other facilities to UNRWA.

On the legal level, the Commissariat’s work on behalf of refugees – like its prelude, the joint action plan launched shortly beforehand by the ICRC and the League of Red Cross Societies following the agreement signed in Stockholm – also helped confirm the division of tasks between the two organizations in the field of relief and the lead role of the ICRC in conflicts, at a time when this distribution of responsibilities was being questioned within the International Red Cross.

For the same reason, the ICRC believed it was vital to prevent its work from being taken over by Count Bernadotte. It also sought to distance itself from him as the UN mediator in order to preserve its identity and independence and the neutrality of humanitarian action, which explains its vehement reaction to his use of the red cross sign.

In the Palestine conflict, the ICRC demonstrated the value of its role as a neutral intermediary and its efficacy as the “operational arm” of the International Red Cross in time of war. The conflict also served as a testing ground for the new Geneva Conventions (common Article 3, Fourth Geneva Convention, safety zones, recognition of the ICRC’s role as neutral intermediary), thereby helping to prove that the ICRC’s proposals in this field were practicable.\footnote{On this subject, see also Dominique-Debora Junod, op. cit.}

These were timely successes at a moment when the ICRC needed to reassert its position within the Red Cross Movement and the international community. They provided significant precedents in view of the revision of the Statutes of the International Red Cross and the adoption of the new Geneva Conventions. The ICRC was aware of this and gave broad publicity to its work.
34. Korea
CHAPTER 13
Korean War

Historical background

In 1905, at the end of the Russo-Japanese War, during which the future of Korea hung in the balance, Japan set up a protectorate over the entire Korean peninsula. Five years later, the Japanese annexed Korea outright. An opposition movement swiftly arose, leading in 1919 to the establishment of a provisional Korean government based in Shanghai’s French Concession and the election of Syngman Rhee as its president. With members dispersed around the world – from China and Siberia to the United States – and political dissent within its ranks, this government-in-exile soon collapsed.

A decade later, in order to achieve its expansionist aims and fuel its war industry, Japan began to step up its industrial production, subjecting Korea to intense economic exploitation throughout the 1930s. This policy led to the displacement, at first voluntary and then forced, of many Korean workers to Japan.1

At the Cairo Conference of December 1943, and then in Yalta in February 1945 and in Potsdam in July and August of the same year, the Allies declared their support in principle for Korean independence but failed to agree on the practical means of achieving it. They nonetheless decided that once Korea had been liberated, the Soviets would disarm the Japanese to the north of the 38th parallel and the United States would do so to the south.

On 10 August 1945, the day after the atomic bomb was dropped on Nagasaki and four days after Hiroshima was levelled, Soviet forces entered Korea. They brought along Soviet-trained Korean communist cadres – including Kim Il Sung – and rapidly set up a communist-led administration in the north.

When US troops landed south of the 38th parallel on 8 September 1945, they sought to introduce a Western-style democracy and, to that end, encouraged the establishment of various political parties.

As for Syngman Rhee, who had returned from exile in the US on 16 October, he set up his own party.

1 At the end of the Second World War, the number of Koreans living in Japan stood at two million. Some 1,400,000 of these returned to their country between 1945 and 1948. The ICRC was called upon to conduct its activities during a second wave of repatriation operations that took place after the end of the Korean War, from late 1959 to the end of 1967. These activities are described by François Perret and François Bugnion in De Budapest à Saigon: Histoire du Comité international de la Croix-Rouge 1956–1965, Vol. IV, ICRC/Georg, Geneva, 2009 (English translation in press).
Failure of US-Soviet negotiations on Korean reunification

The Korean question was raised again in December 1945 at a conference that brought together, in Moscow, the British and Soviet foreign ministers and the US secretary of state. The participants decided to set up a joint Soviet-US commission in charge of forming a provisional democratic government in Korea, and then to draft an agreement establishing a trusteeship administration to be overseen by China, the Soviet Union, the United Kingdom and the United States, for a period not to exceed five years.

The joint commission, whose initial task was to consult “democratic” Korean organizations on the setting-up of a provisional government, was unable to agree either on the choice of such organizations or – should that issue be resolved – on how they were to be represented. Having convened for the first time in March 1946, the commission was dismantled in October 1947 without having reached any agreement.

Faced with this impasse, the United States brought the question before the United Nations General Assembly, which on 14 November 1947 adopted a resolution recommending that elections be held throughout Korea, no later than 31 March 1948, in order to constitute a national assembly tasked with forming a government. A United Nations Temporary Commission on Korea was set up to supervise the elections but was unable to discharge its mandate to the north of the 38th parallel, only to the south.

This situation led to the establishment in 1948 of two separate governments. The Republic of Korea (hereinafter South Korea) officially proclaimed itself a nation in August 1948, with Syngman Rhee as its president, and was immediately recognized by the US and by many other countries. The Democratic People’s Republic of Korea (hereinafter North Korea), headed by Kim Il Sung, declared its own nationhood in early September 1948 and was recognized a month later by the Soviet Union, its allies and Yugoslavia. In August 1950, North Korea was also recognized by the People’s Republic of China. As for the UN General Assembly, on 12 December 1948, it adopted a resolution declaring that a lawful government – that of South Korea – had been established with effective control over that part of the country in which the Temporary Commission had been able to exercise its mandate and in which the great majority of Koreans lived, and this was “the only such government in Korea”. It also recommended that Member States take those facts into consideration in establishing relations with the government of South Korea.

By the end of 1948, the Soviet Union had evacuated most of its occupying forces from the north and in June 1949, the US withdrew its troops from the south. That left two hostile governments – each intent on unifying Korea under its sole control – facing off across the 38th parallel.

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2 A/RES/112(II) adopted by 43 votes to zero, with six abstentions (Byelorussian SSR, Czechoslovakia, Poland, Ukraine, USSR and Yugoslavia).

3 At the time, the population of South Korea stood at 18 million and that of North Korea at 9 million.
Meanwhile, the victory of communist forces in China and the proclamation of the People’s Republic of China in Beijing on 1 October 1949 radically altered the balance of power in the Far East.

Outbreak of war and intervention by the United States and the United Nations

On 25 June 1950, North Korean armed forces crossed the 38th parallel, fanning out along its full length. Three days later, they entered Seoul, just a few dozen kilometres south of the demarcation line.

Convinced that the Soviet Union was behind the North Korean attack, the US immediately ordered General Douglas MacArthur, supreme commander for the Allied powers in Japan, to provide South Korea with the material assistance it required to counter the invasion. The US also called for a meeting of the UN Security Council, which duly convened on the same day. The absence of the Soviet Union – which was boycotting all Security Council meetings in protest against the presence of nationalist China – facilitated the adoption of a US resolution denouncing the North Korean attack on South Korea and demanding an immediate cessation of hostilities and the withdrawal of North Korean troops back to the 38th parallel.4

Two days later, with no response from North Korea, President Truman sent US air and naval forces to join battle on the side of South Korea. On 30 June, he also ordered ground troops moved from Japan to the Korean peninsula.

On 27 June, the Security Council had adopted a second resolution recommending that Member States “furnish such assistance to the Republic of Korea as [might] be necessary to repel the armed attack and to restore international peace and security in the area”.5

Taking note of the offers made by Member States to come to the aid of South Korea, the Security Council adopted a third resolution on 7 July recommending that all States providing military forces put them under a unified command led by the United States and requested the latter to appoint a commander for those forces. It also authorized the unified command to use the UN flag concurrently with the flags of the various States taking part in the operation.5 The next day, General MacArthur

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4 In January 1950, the Soviet Union declared that, until such time as the People’s Republic of China was allowed to take the place of the government of Formosa as a Member State of the United Nations, it would not attend any meetings of the Security Council nor would it recognize any decisions taken by the Council or consider itself bound by such decisions. Aware of the tactical advantage that its absence gave the United States, the Soviet Union nevertheless returned to its seat on the Council on 1 August 1950. The resolution in question (S/RES/82) was adopted by nine votes to zero, with one abstention (Yugoslavia).

5 A total of 17 nations – Australia, Belgium, Canada, Colombia, Ethiopia, France, Greece, Korea (Republic of), Luxembourg, Netherlands, New Zealand, Philippines, Thailand, Turkey, Union of South Africa, United Kingdom and United States – sent combat troops to fight under the auspices of the UN Command in Korea. The US supplied 50 per cent of the ground troops (with the remainder furnished mainly by South Korea), 86 per cent of the naval forces and 93 per cent of the air forces.
was appointed commander-in-chief of the United Nations Command in Korea (hereinafter UNC).

The Soviet government, which called into question the legitimacy of the Security Council resolutions, considered the conflict to be a civil war between Koreans and hence an internal matter. It therefore saw no reason to approach the North Korean government – despite Washington’s entreaty that it put pressure on Pyongyang to withdraw its troops.

During the first stage of the war, between 25 June and 15 September 1950, North Korean forces stormed across the 38th parallel, invading nearly all of South Korea. In a delaying action, General MacArthur strove to defend the Pusan bridgehead at the south-eastern tip of the Korean peninsula while awaiting reinforcements. On 15 September, a surprise landing by a large contingent of UNC troops at Inchon, about 160 kilometres south of the 38th parallel, marked a turning point in the war. After recapturing Seoul in late September, UNC forces reached the 38th parallel in early October and, crossing it, seized Pyongyang on 21 October. By the end of the month they were near the Chinese border, with advance troops on the shores of the Yalu River separating Manchuria from North Korea. By then, some 100,000 North Korean troops had been captured and the US and its allies seemed headed for a swift victory.

Chinese intervention

The People’s Republic of China had made it known in early October 1950 through the intermediary of India – China’s main line of communication with the West – that it would send troops to fight alongside North Korea if UNC forces, other than South Korean troops, crossed the demarcation line.

On 16 October, Chinese armed units, described by Beijing as “volunteers”, crossed the Yalu River. This only became clear, however, ten days later when the first Chinese were taken prisoner.

On 24 November, UNC forces launched a new offensive that was rapidly blocked by a robust Chinese counterattack claiming many casualties. By late December, UNC troops were forced to retreat to the 37th parallel. At the end of January 1951, however, UNC forces launched their own counterattack and by March they had pushed the front line more or less back to the 38th parallel. This marked the beginning of over two years of punishing trench warfare.

On 1 February 1951, the UN General Assembly condemned China for acts of aggression.

In response to the Chinese offensive, General MacArthur was determined to launch an air strike on Chinese bases in Manchuria and even considered dropping the atomic bomb. President Truman, fearing that any incursion into Chinese territory could broaden the conflict and possibly lead to a third world war by drawing in the Soviet Union, refused to approve an attack on Chinese positions across the Yalu River. While the US government was still exploring the possibility of negotiating with
China, MacArthur nevertheless – and without consulting the US president – sent an ultimatum to the Chinese forces on 23 March 1951.

As a result, on 11 April 1951, MacArthur was relieved of his duties and replaced by General Matthew Ridgway (in turn replaced by General Mark W. Clark in late April 1952). MacArthur’s dismissal helped somewhat to relieve the mounting tensions.

Armistice negotiations

On 23 June 1951, the Soviet ambassador to the UN, Yakov Malik, proposed talks on a ceasefire and an armistice providing for the simultaneous withdrawal of all troops to either side of the 38th parallel. This echoed proposals made in previous weeks by UN Secretary-General Trygve Lie and by the United States.

The negotiations – which brought together delegates representing North Korea, the Chinese and the UNC (US and South Korean delegates) – began on 10 July 1951 in Kaesong, a small town situated in the no-man’s-land between the two sides. Owing to various incidents, the talks were moved at the end of October 1951 to Panmunjom, on the 38th parallel. They dragged on until July 1953, with several interruptions during which the violence resumed.

The thorniest issue – and the main stumbling block as of 1952 – was the repatriation of prisoners of war. While North Korea and China demanded the return of
all prisoners, the UNC refused to forcibly repatriate any captive who did not wish to go home.

In 1952, China launched a virulent campaign against the United States, accusing it of resorting to bacteriological or “germ” warfare, a development that drew the ICRC into the fray.

It was not until Stalin died on 5 March 1953 that any tangible progress was made – a few weeks later, on 28 March, the commanders of the North Korean and Chinese forces agreed to the terms that General Clark had proposed on 22 February for the exchange of wounded and sick prisoners.

On 30 March, Chinese Premier Zhou Enlai announced that North Korea and China were prepared to resume talks on the fate of prisoners of war. Negotiations started up again fitfully in late April, and the parties finally signed an armistice agreement on 27 July 1953. The front line became a demarcation line again and then a de facto border between the two Koreas after the collapse of further peace negotiations carried out in 1953 and 1954, including a conference held in Geneva from April to June 1954.

The country has been divided ever since and, decades later, many families remain split apart by the demarcation line.

By the time it ended, the Korean War had lasted 37 months and had been among the most deadly to date, claiming the lives of millions of people – 80 per cent of whom were civilians.6

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ICRC offers of services and the accreditation of delegates

Challenges and legal framework

The Korean War was the first conflict of international scope to break out after the adoption of the 1949 Geneva Conventions. It was also particularly complex for a number of reasons: its “mixed” nature, its ideological dimensions and the role played by the UN.

While it was an internal armed conflict opposing two parties from the same nation, it was also an international conflict in which one party – South Korea – enjoyed the support of the US and its allies under a unified command set up by the United Nations, and the other party – North Korea – was backed by China. Beyond its purely military aspects, the conflict pitted two diametrically opposed ideologies against one another, with each side vying to conquer the hearts and minds of a deeply divided world.

Coming in the wake of the Greek Civil War (1946–1949), the coup d’état in Prague (February 1948), the Berlin blockade (June 1948–May 1949) and the long civil war that gave birth to the People’s Republic of China (1 October 1949), and as the fighting in Indochina was escalating, the Korean War broke out during one of the most tense periods of the Cold War. It reflected the profound division of the world into two hostile camps made up, on the one hand, of the United States and the rest of the Western world and, on the other, of the Soviet Union, China and the Eastern-bloc countries, backed by part of Western public opinion – represented mainly by the communist parties and the pacifist movements. Peace was one of the themes underpinning the propaganda used by the Soviet Union and its allies to discredit the US and other Western nations.

The same period witnessed the emergence of a number of newly independent States, which, like India, strove to carve out a middle ground between the two camps.

Meanwhile, the US, taking advantage of the Soviet Union’s decision to boycott all Security Council meetings, used the UN to forward its own aims, drawing the international body into the conflict.

The ICRC thus faced two major challenges: first of all, to gain access to the victims of the conflict in order to alleviate their suffering in so far as possible and, beyond that, to lay the foundations for its future work in the communist world. Early on, the ICRC sensed that the Korean War would become a testing ground. With the spectre of a third world war looming, the ICRC feared that any refusal by North Korea to accept its action would set an unfortunate precedent and possibly undermine the newly minted Geneva Conventions, jeopardizing their ratification.\(^7\)

Signed by some 60 States, the four Geneva Conventions of 1949 came into force on 21 October 1950. In strictly legal terms, they did not apply to the Korean War as

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\(^7\) Minutes of the plenary meeting of the Committee held on 13 July 1950 – ICRC Archives, A PV. “Réflexions et commentaires sur le conflit de Corée”, E. de Weck, undated document – ICRC Archives, B AG 202 (172).
the main belligerents had not yet acceded to them.\footnote{The US and China, which were among the signatory States, ratified the Geneva Conventions on 2 August 1955 and 28 December 1956, respectively. The Democratic People’s Republic of Korea adhered to the treaties on 27 August 1957 and the Republic of Korea on 16 August 1966. Among the parties at war, France was the first to ratify the treaties, on 28 June 1951.} Moreover, while most of those nations were party to the 1929 Conventions, this was not true of Korea, which at the time had been under Japanese rule.

As for the Red Cross Societies of North and South Korea, they were still considered, under the rules governing the establishment of such societies, as “emerging” and had not yet been officially recognized by the ICRC.\footnote{The Republic of Korea National Red Cross was officially recognized by the ICRC on 26 May 1955 and the Red Cross Society of the Democratic People’s Republic of Korea on 2 February 1956.} This did not in principle, however, prevent the ICRC from establishing relations or cooperating with them.

**Offers of services**

*Initial steps*

On 26 June 1950, the day after the outbreak of the Korean War, the president of the ICRC, Paul Ruegger, sent identical telegrams to the governments of North and South Korea offering the ICRC’s services and urging them to comply with the humanitarian principles enshrined in the Geneva Conventions: “International Committee Red Cross Geneva, founded 1863, neutral and non-political institution composed exclusively Swiss citizens and whose humanitarian intermediary is provided for in cases of international or civil war and internal disturbances, wishes assure you at your disposal to accomplish (...) traditional tasks in existing situation Korea.” The telegrams went on to say that this offer was based on the “two 1929 Conventions, firstly for amelioration condition wounded and sick, secondly relative to treatment prisoners of war, likewise Geneva Conventions 1949 on same subjects, plus Convention protection civilians. In our opinion fact that Korea not party to (...) these international agreements signed by sixty-one states should not prevent *de facto* application humanitarian principles protecting war victims contained in said Conventions.”

Since the Swiss telegraphic services could not guarantee delivery of messages to North Korea, the ICRC sent a copy of the telegram to the Soviet Ministry of Foreign Affairs, requesting that it be forwarded to Pyongyang through the North Korean embassy in Moscow. The ICRC continued to communicate with the North Koreans in this manner in order to ensure that its messages got through, until 22 August 1950 when the Soviet Union informed the ICRC that, since postal and telegraphic services functioned normally, it could send its messages directly to the government of North Korea.\textsuperscript{12}

On 26 June, the ICRC informed the UN secretary-general, Trygve Lie, of the steps it had taken, asking him to bring them to the attention of all the members of the Security Council, including the Soviet ambassador who, although not attending the Council’s meetings, was nonetheless present in Lake Success.\textsuperscript{13}

The ICRC then asked its delegate in Hong Kong, Frédéric Bieri,\textsuperscript{14} to travel immediately to South Korea via Tokyo. At the same time, it asked Jacques de Reynier, former head of the ICRC delegation in Palestine, to go to North Korea.

On 28 June, after the United States had entered the war, the ICRC also offered its services to its government pursuant to the two Geneva Conventions of 1929, to which the US was a party, and the four Geneva Conventions of 1949, which the US had signed and in the spirit of which the ICRC intended to act.\textsuperscript{15}

On 7 July, following its messages of 26 and 28 June, the ICRC sent another telegram to the governments of North Korea, South Korea and the US to let them know that the services of the Central Prisoners of War Agency were available to collect and distribute information on prisoners of war and civilians, including civilian internees.\textsuperscript{16}

The ICRC sent messages similar to those of 26 June and 7 July to each State that played a military role in the conflict under the aegis of the UNC, as soon as it entered the war.\textsuperscript{17}

Having reached South Korea on 3 July, Bieri was received the next day by President Syngman Rhee. The South Korean leader accepted the ICRC’s offer of services – while requesting relief for war victims – and undertook to comply with the basic principles


\textsuperscript{13} Telegram of 26 June 1950 from the ICRC to the UN secretary-general – ICRC Archives, B G 17 (172). Minutes of the meeting of the Commission for External Activities held on 28 June 1950 – ICRC Archives, A PV.

\textsuperscript{14} See pp. 592 ff. below.


\textsuperscript{16} Telegrams of 7 July 1950 to the ministers of foreign affairs of North Korea and South Korea and to the US secretary of state – ICRC Archives, B G 17 (172). \textit{Rec. doc. I}, No. 5, p. 8, and No. 7, pp. 9–10.

\textsuperscript{17} These messages were sent between 28 June 1950 and 10 April 1951. \textit{Rec. doc. I}, p. 3.
laid down in the 1929 and 1949 Geneva Conventions. To formally back up this commitment, he signed Article 3 common to the 1949 Conventions.\(^{18}\)

On 5 July, US Secretary of State Dean Acheson sent a telegram to the ICRC assuring it that his government would be guided by the humanitarian principles enshrined in the Conventions, particularly those set out in common Article 3, and promising full cooperation with the ICRC, provided South Korea accepted the organization’s offer of services.\(^{19}\)

The ICRC immediately forwarded these replies to the North Korean government. In a message dated 13 July addressed to the UN secretary-general – who sent it on to the ICRC two days later – the North Korean minister of foreign affairs announced that the armed forces of his country strictly complied with the provisions of the Geneva Conventions applicable to prisoners of war.\(^{20}\) It was not surprising that North Korea made its position known through the UN since, on 11 July, Trygve Lie had taken the initiative of sending both North Korea and South Korea telegrams supporting the ICRC’s offer of services and urging them to accept it.\(^{21}\)

As for the other States that were to send military contingents under the aegis of the UNC, they stated their intention either to apply the 1929 Geneva Conventions and \textit{de facto} those of 1949, or simply to comply with all the international conventions that the UNC deemed applicable. The ICRC forwarded their answers to North Korea as soon as it received them.\(^{22}\)

\textit{Chinese intervention}

In late November 1950, after the People’s Republic of China had informed the UN that China was not a party to the conflict but that Chinese “volunteers” had stepped in to support North Korea, the ICRC decided to offer its services to the military command under which those “volunteers” served,\(^{23}\) in the following terms:

International Committee of the Red Cross at disposal of command under which Chinese volunteers fighting in Korea to perform, for all victims of operations, its role as laid down in the Geneva Conventions relative to the protection of war victims, namely the wounded and the sick, prisoners of war and internees. The Conventions also provide


\(^{22}\) Minutes of the meeting of the Presidential Council held on 4 December 1950 – ICRC Archives, A PV.
for use of Central Prisoners of War Agency in Geneva (...). International Committee prepared to send to command a neutral delegate, of Swiss nationality, to carry out, with consent of command, all tasks set out in the Geneva Conventions.  

The ICRC sent this offer to the North Korean minister of foreign affairs, requesting that it be conveyed to the relevant military command since the organization did not know where the latter was stationed or how to reach it. A copy was forwarded to the Chinese minister of foreign affairs, Zhou Enlai, with the same request. The ICRC received no reply.

Accreditation of delegates

North Korea

In its offer of services dated 26 June 1950, the ICRC had stated that it was prepared to send a delegate to meet with the North Korean government. Since the most direct route to North Korea was via the Soviet Union, the ICRC requested, on 28 June, a transit visa for its delegate and sent a representative to the Soviet Legation in Bern to obtain the document a few days later. However, the Legation refused to issue a transit visa until North Korea had provided an entry visa. Since North Korea had no diplomatic representative in Switzerland, the Soviet Legation decided that the request should be submitted to the North Korean embassy in Moscow.

The next day, President Ruegger informed the North Korean government that the ICRC had appointed Jacques de Reynier as its delegate. He also asked the government to cable a visa enabling de Reynier to enter North Korea via the Soviet Union and informed it of the arrival of Frédéric Bieri in South Korea.

The ICRC president simultaneously asked the Soviet Ministry of Foreign Affairs to issue a visa permitting de Reynier to travel to Moscow, where the latter would apply for a visa to enter North Korea. He also appealed to the Soviet Alliance of Red Cross.

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25 On 16 July 1952, the People’s Republic of China nonetheless sent the government of Switzerland – the depositary State for the Geneva Conventions – a document stating that it recognized the Conventions. It did not ratify them until 1956.


and Red Crescent Societies for its support in obtaining the visas and in facilitating de Reynier's journey from Moscow to Pyongyang by the fastest possible route.\(^{28}\)

After reiterating its requests in vain to the Soviet Union and to North Korea (Pyongyang remained silent), the ICRC began to explore other avenues for reaching North Korea. To improve its chances of success, it considered sending a second delegate via Hong Kong and China (Tianjin).\(^{29}\) On 12 July, President Ruegger therefore telegraphed the minister of foreign affairs of the People's Republic of China, asking him to facilitate the passage of ICRC delegate Jean Courvoisier through Chinese territory.\(^{30}\)

On 31 July, however, the Chinese government informed the ICRC that it could not authorize its delegate to travel through China unless he had been granted prior permission to enter North Korea.\(^{31}\)

Given the numerous obstacles encountered and the seriousness of the crisis, the ICRC president decided to undertake a formal approach by sending a telegram on 5 August directly to Premier Kim Il Sung. After referring to the eight messages already conveyed to the North Korean government, to which no reply had been received, he urged Kim Il Sung to intervene personally so as to enable the two ICRC delegates to enter the country. President Ruegger also proposed that the delegates examine with North Korea, in addition to assistance for prisoners of war and civilian internees, the possibility of launching a relief operation.\(^{32}\) A copy of this appeal was sent to the Chinese and Soviet Ministries of Foreign Affairs, from which the ICRC had requested transit visas, to the UN secretary-general and to the Indian prime minister, who had supported the ICRC’s representations through the Indian embassy in Beijing. Also, for the first time, on 2 August, the ICRC contacted the Korean Red Cross in Pyongyang, detailing its efforts and requesting its support.\(^{33}\)

On his arrival in Tianjin on 9 August, Courvoisier was granted a temporary permit to remain on Chinese soil but was immediately informed that the North Korean government had refused to issue an entry visa for him. He was nonetheless allowed to travel to Tianjin for three days, where he planned to meet with the Indian ambassador and the Swiss chargé d’affaires. Once in the capital, he requested an audience with the North Korean ambassador but was turned down and told instead to write a letter. Courvoisier then sent the North Korean minister of foreign affairs a telegram


\(^{29}\) Minutes of the meeting of the Presidential Council held on 29 June 1950 and minutes of the working session of the Committee held on 6 July 1950 – ICRC Archives, A PV.


\(^{32}\) Minutes of the working session of the Committee held on 3 August 1950 – ICRC Archives, A PV. Telegram of 5 August 1950 from the ICRC to the Prime Minister of Korea – ICRC Archives, B G 17 (172). Rec. doc. I, No. 64, pp. 48–49.

in which, referring to the protests made by the minister to UN Secretary-General Trygve Lie over the alleged bombing of hospitals and medical units by UNC forces (see below), he offered to establish the facts and proposed the creation of safety zones.\(^{34}\)

On his return to Tianjin, Courvoisier sent a memorandum to the North Korean ambassador in Beijing, reiterating his request for a visa.\(^{35}\) Still with no reply from North Korea to his approaches — which were deemed inappropriate by the Chinese Ministry of Foreign Affairs — Courvoisier left Tianjin on 7 October.

Meanwhile, the ICRC appealed to the Hungarian authorities, asking them to allow de Reynier to contact North Korean representatives in their country, but this also led nowhere.\(^{36}\)

On 29 August, the ICRC had sent, through Trygve Lie, a telegram to Yakov Malik, in his capacity as president of the UN Security Council, describing the organization’s fruitless attempts to contact the North Korean government and requesting impartial support in enabling it to discharge its mandate to assist war victims. The ICRC sent a copy of this telegram to North Korea, informing the government of its intention to take stock of its activities in Korea and urging it to reply to its numerous appeals.\(^{37}\)

The ICRC had been aware for several weeks that the time was fast approaching when it would have to demonstrate to public opinion — especially in the countries that had sent troops to Korea under the aegis of the UNC — that it had made every effort to gain access to war victims in enemy hands and to assist them in accordance with its traditional role.\(^{38}\)

Still with no reply from Pyongyang, on 19 September the ICRC made public its message of 29 August to Yakov Malik, including it in the *Revue internationale de la Croix-Rouge*. The organization also announced that it remained ready and determined to deploy its activities throughout the Korean peninsula as soon as the North Korean government granted it the necessary facilities.\(^{39}\)

\(^{34}\) Summary of J. Courvoisier’s trip to China from 9 August to 7 October 1950, dated 11 October 1950 — ICRC Archives, B G 3/85.

\(^{35}\) Memorandum of 4 September 1950 from J. Courvoisier to the North Korean ambassador in Beijing — ICRC Archives, B G 3/85.


\(^{38}\) In order to avoid jeopardizing its chances of taking action by prematurely publishing its compilation of documents, *Le Comité international de la Croix-Rouge et le conflit de Corée*, op. cit., the ICRC waited until July 1952 before issuing the first volume and December 1952, the second.

With its hopes of sending de Reynier to North Korea dashed, the ICRC decided in late September to post its delegate instead to South Korea, where the organization was eager to step up its activities, especially in the area of relief.

**South Korea**

Meanwhile, Frédéric Bieri rapidly reached South Korea via Tokyo. On 16 July 1950, the ICRC had received confirmation from the South Korean government that Bieri would be welcome, and on 24 July the UNC in Tokyo informed the delegate that it had accepted his accreditation. In its message, however, the UNC referred only to the ICRC’s mandate as defined in the 1949 Geneva Convention protecting prisoners of war, namely the Third Convention. South Korea sent a letter reiterating those terms to Bieri and then to de Reynier.\(^{40}\)

The ICRC began to visit prisoners of war on 26 July and rapidly deployed its activities for them. Difficulties soon emerged over other humanitarian issues, however, particularly the fate of civilian war victims.

ICRC delegates found themselves totally dependent on the UNC for logistical support (means of transport, accommodation, etc.) in South Korea. By the same logic that the UNC prohibited civilians from entering South Korea – for security reasons – it insisted that ICRC delegates wear military uniforms. Taken off-guard, the delegates at first donned US army uniforms, replacing the military insignia with the ICRC logo.\(^{41}\) Once informed of this, ICRC headquarters told its delegates that, for reasons of principle and advisability, they must do their utmost to avoid wearing anything resembling the uniforms of troops deployed in Korea. They were instructed to return the military clothing forthwith and to have their own outfits made. This took some time, however, as they had to wait for the ICRC to send the necessary fabric.\(^{42}\)

On 14 January 1951, during a visit by Trygve Lie to the ICRC, President Ruegger handed a memorandum to the secretary-general requesting that ICRC delegates be granted all the facilities necessary to conduct the full range of activities entrusted to the organization under the four Geneva Conventions of 1949.\(^{43}\)

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\(^{41}\) Notes No. 3 and No. 4 of 2 and 4 October 1950 respectively, by J. de Reynier – ICRC Archives, B G 3/84.

\(^{42}\) Minutes of the meeting of the Presidential Council held on 18 October 1950 and minutes of the meeting of the Commission for External Activities held on 6 December 1950 – ICRC Archives, A PV. Note No. 87 of 8 December 1950 from the ICRC to F. Bieri and J. de Reynier – ICRC Archives, B G 3/84.

This matter was taken up again by Roger Gallopin, the executive director of the ICRC, and by Max Wolf, counsellor to the ICRC president, during a visit to the United States in early 1951. On that occasion, they handed to Trygve Lie’s executive assistant a new memorandum referring to the secretary-general’s recent visit to Geneva and reiterating the conditions the ICRC sought to have fulfilled, namely: “recognition of the application, at least de facto”, of the four Geneva Conventions of 1949; authorization for ICRC delegates to “travel freely” and to visit prisoner-of-war camps, camps and prisons where civilians were detained on grounds other than criminal offences, and the granting of the facilities required to do so; and lastly, authorization for its delegates “to visit civilian and military hospitals, to undertake any research relating to missing persons and to give help to prisoners of war and civilians detained in camps or prisons and to the civilian victims of war”.

A copy of this memorandum was sent to the US State Department, in whose offices ICRC representatives attended several meetings during which they lobbied for the comprehensive application of the Geneva Conventions in South Korea, especially the Fourth Convention protecting civilians. None of this had any impact in the

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44 Memorandum of 8 February 1951 from the ICRC to the UN secretary-general appended to the mission report of 2 April 1951 drawn up by M. Wolf and R. Gallopin – ICRC Archives, B AG 251 (47). Rec. doc. 1, No. 112, pp. 84–85.
field, however, where ICRC delegates continued to encounter strong resistance to any broadening of their role, especially in terms of providing relief for civilian detainees and the population at large.

Very little came of further approaches made in August 1951 by Max Wolf to the UNC in Tokyo, backed up by a telegram from the ICRC president to General Ridgway.\textsuperscript{45}

In September 1951, the ICRC appointed Dr Otto Lehner (former head of delegation in Germany, Czechoslovakia, Israel and Indonesia) as its head of delegation in South Korea to replace de Reynier, who had left to take over the ICRC’s delegation in Indochina. The letter of accreditation issued to Lehner by the UNC, like the letters issued to Bieri and de Reynier, referred only to the Third Geneva Convention.\textsuperscript{46}

The US ambassador to the United Nations nonetheless repeatedly declared, in responding to allegations of atrocities committed by US forces (see below), that his country’s troops complied with the provisions of the four Geneva Conventions of 1949.\textsuperscript{47} The ICRC felt that this claim should not go unchallenged since only the Third Convention was being implemented in South Korea. It therefore decided to approach General Ridgway yet again and, should his reply prove unsatisfactory, to forward it to the UN.\textsuperscript{48}

President Ruegger sent a telegram to General Ridgway on 6 November asking him to explicitly confirm the declarations made by his government to the UN and to review the letters of accreditation issued by the general command to the ICRC’s delegates so as to expand the scope of their activity.\textsuperscript{49} In his reply, General Ridgway confirmed his initial position, namely that his instructions were “to abide by the humanitarian principles of the [1949] Geneva Conventions, particularly (...) common Article 3”. He had also ordered his troops to scrupulously comply with the provisions of the Third Convention relating to prisoners of war, as it was a command he knew he could enforce. However, he stressed that he had “neither the authority to accept, nor the means to assure the accomplishment of, responsibilities incumbent on sovereign nations as contained in the detailed provisions of the other Geneva Conventions”.\textsuperscript{50}

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47 E.g. letter written by Ambassador Warren Austin on 5 July 1951 to Secretary-General Trygvie Lie. Docs./2232, 6 July 1951 – ICRC Archives, B AG 202 (172).
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48 Minutes of the meeting of the Commission for External Activities held on 17 October 1951 and minutes of the plenary meeting of the Committee held on 2 November 1951 – ICRC Archives, A PV.
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49 Telegram of 6 November 1951 from the ICRC to the UNC commander – ICRC Archives, B AG 202 (172), \textit{Rec. doc. I}, No. 114, p. 86.
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The ICRC forwarded this reply to the UN secretary-general and to the US Consulate General in Geneva. It also decided to include its representations on this matter in a compilation of documents that it was about to publish on its action in Korea.51

**President Ruegger’s visit to China**

In late December 1950, following the failure of all ICRC efforts to contact the North Korean authorities, President Ruegger suggested to the Committee that he travel in person to the country aboard a specially chartered plane carrying a first consignment of medicines. He intended to ask for help from the Soviet Union and China – a transit permit was in any event needed from one of the two countries – and make public this new offer of assistance to North Korea.

On examining this proposal, the Committee was aware that its chances of success were slim. It nonetheless considered that to fail in this venture would be no worse than to let people think that the ICRC had not done everything in its power to discharge its mandate in North Korea.52 This was all the more critical as there had been no news of any prisoners of war held by North Korea or China. Public outrage was mounting in the prisoners’ home countries, and both the UN and the US had voiced their concern over the matter to the ICRC.

On 5 January 1951, the ICRC therefore sent the following telegram to the North Korean minister of foreign affairs, Pak Hon-yong:

> In the desire of bringing to all victims of the war the strictly impartial aid of the International Committee of the Red Cross, I consider it my duty to propose that I visit your Government in order to examine the different Red Cross problems which have been the object of our previous communications, sent since June 26, 1950, and referring to (1) prisoners of war on both sides; (2) the possibility of protecting the non-combatant civil population, as outlined in our proposal of July 7, 1950, by the creation, in accordance with the Fourth 1949 Geneva Convention, of [safety] zones which would be immune from all forms of hostilities, including aerial and naval bombardment.

> If your Government and the Korean Red Cross agree to examine these urgent problems, I propose to travel personally to Korea in a Red Cross aircraft, registered in Switzerland. (...) The plane would also carry an initial stock of medical supplies provided from various neutral gifts, particularly a gift from the Swiss Government, for impartial and equitable distribution to all victims of hostilities in Korea.

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52 Minutes of the working sessions of the Committee held on 21 December 1950 and 4 January 1951 – ICRC Archives, A PV.
The telegram went on to say that the ICRC was approaching the governments of neighbouring countries with which North Korea had diplomatic relations to ask them “to accord, in the spirit of the Geneva Conventions, every assistance in facilitating transit.”

This telegram was the subject of a press release issued by the ICRC on 8 January 1951. Moreover, the ICRC informed the Chinese government, the Red Cross Society of China and the Soviet Alliance of Red Cross and Red Crescent Societies – and through it, the Soviet government – of the message it had sent to North Korea, asking for the support of all.

In a telegram to Zhou Enlai, President Ruegger requested authorization in principle for an ICRC-chartered flight to land in China on its way to North Korea. He also underscored the importance he attached in any event to visiting Beijing, where he wished to meet in person with representatives of the Chinese government and Red Cross officials to discuss matters of mutual concern.

This new tack taken by the ICRC was accompanied by intense diplomatic efforts directed not only at Soviet and Chinese representatives in Switzerland but also at the Swiss Federal Department of Foreign Affairs, Indian Prime Minister Jawaharlal Nehru, and the Swiss and Indian ambassadors to China.

In mid-January, however, the Chinese government replied that it would not consider any request for permission to transit through its territory until North Korea had agreed to the proposed visit. As for North Korea, it remained silent despite two more approaches made by the ICRC.

In late January, the ICRC took stock of the situation. It was important to let China know that whatever the North Korean government decided, President Ruegger remained eager to establish relations with the Chinese government and with the country’s Red Cross Society. The ICRC also wished to open a delegation in Beijing in view of China’s overwhelming influence in the Far East – and ahead of a possible

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55 Minutes of the working session of the Committee held on 31 January 1951 and their annex – ICRC Archives, A PV. Regarding the support provided by the Swiss ambassador to China, see Blaise Oberson, _Le CICR et la guerre de Corée: une tâche impossible_, dissertation written under the supervision of Prof. Jean-Claude Favez, Faculty of Letters, Department of General History, University of Geneva, July 1986, p. 30.
58 F. Bieri, the ICRC delegate sent to Hong Kong during the Chinese Civil War, had been unable to do so. See pp. 430 ff. below.
escalation of the conflict between China and UNC forces. However, the ICRC needed to consider whether, by explicitly stating its interest in China, it might appear to have abandoned its plan of going to North Korea. In order to minimize this risk, President Ruegger decided to convey the message orally.\(^{59}\)

Shortly thereafter, China agreed to the ICRC president’s visit while reiterating that it could not bring pressure to bear on North Korea or authorize an ICRC-chartered plane to land in Beijing. Convened for an extraordinary session, the Committee decided not to delay the president’s trip to China in the vain hope of an answer from Pyongyang.\(^{60}\)

Like China, the Soviet Union argued that it could not interfere in North Korea’s internal affairs.\(^{61}\)

On 26 February 1951, the ICRC president boarded the *Henry Dunant* – a white aircraft bearing the ICRC’s logo. He was accompanied by three staff members, including a doctor. On the off-chance that the flight might be authorized to land in China and, possibly, to proceed from there onward to North Korea, it also carried 500 kilograms of medicines.

The ICRC team made a first layover in New Delhi, where President Ruegger held preparatory talks with Jawaharlal Nehru and the president of the Indian Red Cross, Amrit Kaur. It then proceeded to Hong Kong, where three of its members boarded a train for China.

The ICRC aircraft, its crew and the doctor remained in Hong Kong, where they awaited instructions and took delivery of a second consignment of 700 kilograms of medicines that, for technical reasons, had arrived separately. Despite renewed entreaties by the ICRC president upon his arrival in Beijing, the aircraft was never authorized to travel onward to China, and he and his two colleagues returned to Hong Kong by train at the end of their visit. The medicines were left in Hong Kong, where they were to be forwarded to the Chinese Red Cross.

President Ruegger and his colleagues stayed in Beijing from 14 to 22 March 1951. During their visit, they had daily contacts with the Chinese Red Cross, especially with its president, Li Tehchuan, and a few of her colleagues, and with representatives from the Ministry of Foreign Affairs and from the Office of Protocol. Discussions focused on closer ties between the ICRC and the Chinese Red Cross, including the possibility of posting a delegate to Beijing, and the provision of assistance to various categories of war victims in Korea – civilians, wounded and sick members of the armed forces, prisoners of war and civilian internees – in the form of medical care, tracing activities,

\(^{59}\) Minutes of the working session of the Committee held on 31 January 1951 – ICRC Archives, A PV.

\(^{60}\) Telegram of 3 February 1951 from the Swiss ambassador to China sent through the Swiss Federal Department of Foreign Affairs – ICRC Archives, B AG 251 PR (34). Minutes of the extraordinary session of the Committee held on 6 February 1951 – ICRC Archives, A PV.

\(^{61}\) Note of 29 January 1951 by President Ruegger on his meeting the same day with the Soviet chargé d’affaires in Bern – ICRC Archives, B AG 251 PR (34).
the setting up of safety zones, visits to camps and so forth. The ICRC summed up these discussions in a memorandum.\textsuperscript{62}

President Ruegger asked the Chinese Red Cross to distribute, in the ICRC’s place, all the medicines brought to Hong Kong. He based this unprecedented request on Articles 125 and 142 of the Third and Fourth Geneva Conventions of 1949, which provide for National Red Cross Societies and other charitable organizations to undertake relief activities. He recommended distributing the medicines as follows: one third to wounded and sick members of the North Korean and Chinese forces, one third to prisoners of war in North Korean hands and one third to civilian war victims.\textsuperscript{63}

The ICRC president also asked the Chinese Red Cross for assistance in delivering messages between prisoners of war and their families and between civilians separated from their relatives by the events. To this end, he proposed setting up a tracing office in a Far-Eastern territory that was not involved in the hostilities, such as Hong Kong or Macao, where family messages could be centralized and passed on, whether they came from South Korea via Japan, or from North Korea through the Chinese National Society.

The discussions got off to a slow start, and the ICRC president sensed some reluctance that he later attributed to a news item carried by the US press – and picked up by the media in Hong Kong and China – claiming that China, faced with the prospect of a military defeat, was using the ICRC’s visit as a pretext for a peace offensive. The discussions picked up after the first week when the secretary-general of the Chinese Red Cross, noting that his Society had studied the documents submitted to it by the ICRC, finally gave some encouraging signs, especially with regard to Korea. He believed that once North Korea realized the sincerity of the ICRC’s wish to assist war victims, it would accept the organization’s offer of services.\textsuperscript{64} As for relief activities and the exchange of family messages, China wanted the ICRC to deal directly with North Korea. Until that became possible, however, it agreed to serve as a temporary intermediary. The ICRC’s proposal to open a delegation in Beijing was under consideration.

Prior to his departure, President Ruegger was received by Premier Zhou Enlai, to whom he handed over all the ICRC’s memoranda on Korea and who assured him of China’s support. Zhou nonetheless expressed certain reservations concerning the effectiveness of the safety zones advocated by the ICRC, pointing out that their existence could lead to the bombing of neighbouring regions. He also urged the ICRC to condemn indiscriminate bombing, in conformity with Resolution XXIV adopted by the 17th International Conference of the Red Cross in Stockholm in 1948.\textsuperscript{65}

\textsuperscript{62} Note D 140 of April 1951, unsigned, on President Ruegger’s trip to Beijing from 14 to 22 March 1951, and its 15 annexes – ICRC Archives, B AG 251 PR (34).


\textsuperscript{64} Report on his trip to China presented by President Ruegger to the Presidential Council at its meeting held on 5 April 1951 – ICRC Archives, B AG 251 PR (34).

\textsuperscript{65} See p. 257 above.
On his return to Geneva, President Ruegger felt that the purpose of his journey had been entirely fulfilled as far as China was concerned. Travel to North Korea, however, had proved elusive, even though another attempt had been made by the ICRC in Geneva, during his stay in Beijing, to obtain permission for him to proceed to Pyongyang.\(^{66}\) Despite the failure of this attempt, the ICRC president considered his journey worthwhile: “Had we not undertaken these representations (…), which played a key role in our negotiations with Beijing, China would no doubt have argued that it had no power, not even that of persuasion, to influence North Korea, a fully sovereign and independent nation. The journey to Beijing at least made it possible to draw up a plan of action for North Korea in cooperation with the Chinese Red Cross, which pledged to support us, in the spirit of the newly adopted 1949 Geneva Conventions, and urged us to carry out our traditional and treaty-based activities without delay.”\(^{67}\)

The ICRC president called a press conference during which he stressed that his talks with the Chinese Red Cross had been “most satisfactory” and repeated that the ICRC stood ready to assist war victims in North Korea at any time. His full statement was published in the *Revue internationale de la Croix-Rouge*.\(^{68}\)

Unfortunately, the hopes raised by the ICRC president’s visit to China, especially his contacts with the Chinese Red Cross, were quickly dashed. As early as April, the National Society informed the ICRC that it could not take delivery of the medicines left in Hong Kong until the organization had reached an agreement with the North Korean Red Cross.\(^{69}\) The ICRC immediately contacted the latter but received no reply.\(^{70}\)

In late May, President Ruegger sent a telegram to the North Korean government about the results of his recent trip to Beijing:

> I requested Chinese Red Cross act on behalf International Red Cross Committee in Korean People’s Democratic Republic where circumstances permit and until Committee is itself enabled by your Government to carry out its traditional activities in your country. Chinese Red Cross informed me it desires International Committee to accomplish itself soonest possible its customary tasks and activities but is nevertheless prepared accede my request on receiving your Government’s approbation. Proposed Chinese Red Cross action would concern mainly inquiries about missing combatants and civilians; transmission war victims mail; transmission relief. Regarding relief inform you that medicaments brought by my mission are still in Hong Kong. (...) In view ravages caused

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67 Report on his trip to China presented by President Ruegger at the meeting of the Presidential Council held on 5 April 1951, *op. cit.*


your territory by hostilities, earnestly request you enable Chinese Red Cross act on our account soonest possible in behalf war victims in this territory, pending possibility for International Committee to carry out this work directly by sending delegate to your country, as have unceasingly requested.71

However, the ICRC was soon confronted with what it considered a complete about-face on the part of the Chinese Red Cross. Despite oral assurances received by President Ruegger during his stay in Beijing, the National Society wrote a letter to the ICRC in July claiming that it had never agreed to work in North Korea on behalf of the ICRC and that it had always maintained that if the ICRC wished to work in North Korea, it would have to make arrangements directly with the relevant authorities in Pyongyang. The Chinese Red Cross further stated that it could not consider carrying out any activity proposed by the ICRC until the latter had received a green light from the North Korean authorities. The Chinese Red Cross considered that the telegram sent at the end of May by the ICRC to the North Korean government and the comments made by President Ruegger on the matter at his press conference distorted the facts and could lead to a misunderstanding between the parties. In order to set the record straight, it requested that its letter be published in the Revue internationale de la Croix-Rouge.

While acceding to this request, the ICRC also published its reply to the president of the Chinese Red Cross, Li Tehchuan, in which it reiterated the assurances its president had received while in Beijing and expressed its profound disappointment at being unable, after more than a year of hostilities, to assist war victims in North Korea.72

At the end of the day, the ICRC was never able to discharge its mandate in North Korea. As for its activities in South Korea, they were mostly limited by the UNC to assisting prisoners of war. The ICRC delegation in South Korea, headquartered in Tokyo, never exceeded three people – a head of delegation and two general delegates – for more than short periods during which a few extra delegates were sent to help out with the repatriation of severely wounded or sick prisoners of war or when there was a glimmer of hope that it might be able to take part in the general repatriation of prisoners of war.


Geneva Conventions

ICRC appeals for compliance with humanitarian principles

Given the lack of awareness that active combatants seemed to display with regard to the Geneva Conventions and various allegations of serious violations thereof,\(^{73}\) the ICRC sent the warring parties a telegram in late October 1950 summing up the basic principles set out in the Conventions, namely: the obligation to respect and protect the wounded and the sick – whether members of the military or civilians, whether friend or foe – and to afford them satisfactory treatment; the prohibition on attacks against medical facilities, medical means of transport and medical personnel; the possibility of marking such facilities and means of transport, in order to help identify them, with the emblem of the red cross against a white background, and the obligation to respect this emblem; the obligation to respect captured combatants, to spare their lives and to afford them prisoner-of-war status; the prohibition on attacks against non-combatants, including women and children, and the obligation to treat them humanely; the general prohibition on torture and all forms of cruel or degrading treatment, and on hostage-taking; the obligation to ensure that civilian internees are treated at least as well as prisoners of war. The ICRC explicitly asked that these principles be made known to all troops.\(^{74}\)

At the prompting of the UN secretary-general and in the absence of any information on the fate of prisoners of war held by North Korea, the ICRC sent a second message on 24 October to the same parties, emphasizing its concern for the prisoners.\(^{75}\)

In early November, the ICRC received a reply from the UNC, which assured it that all its echelons were familiar with and observed the Conventions and that all its troops operating in Korea had been informed of the basic principles laid down in the treaties, as requested by the ICRC.\(^{76}\)

Alleged violations of international law

Beginning in July 1950, and then in successive waves, the ICRC received complaints about alleged violations of international law, in particular the Geneva Conventions, by UN forces. These included the bombing of civilians and of North Korean Red Cross

\(^{73}\) Minutes of the working session of the Committee held on 31 August and 28 September 1950 – ICRC Archives, A PV. Note No. 92 of 22 December 1950 from the ICRC to F. Bieri – ICRC Archives, B G 17 (172).


\(^{75}\) ICRC Archives, B G 17/172. Rec. doc. I, No. 49, p. 38. Minutes of the working session of the Committee held on 24 October 1950 – ICRC Archives, A PV.

facilities, the use of asphyxiating gases and bacteriological experiments on prisoners of war in UNC hands. Most of these complaints came from Eastern European National Societies, the Chinese Red Cross and organizations that were not part of the Red Cross network, such as workers’ unions, women’s associations and peace committees.

In keeping with its longstanding practice, the ICRC forwarded the complaints lodged by National Red Cross Societies to their sister Societies in the countries under accusation and those made by governments to the authorities of those countries. In both cases, it offered to forward any replies it received.

Specifically, the ICRC forwarded the complaints made by Eastern European Red Cross Societies and the Chinese Red Cross to the American Red Cross and to the National Red Cross Societies of the other countries that had sent military contingents to fight in Korea under the aegis of the UNC. At the same time, it drew the attention of the National Societies that had submitted complaints to the fact that it was not in a position to pass judgement on or condemn acts that it had not been able to verify, and that its repeated efforts to obtain authorization from the North Korean authorities to assist war victims, in particular by setting up safety zones, had fallen on deaf ears.

In view of the allegations concerning prisoners of war in UNC hands, the ICRC asked its delegates to monitor the medical treatment the prisoners received and to inform it of any failings in that regard.

The matter was also raised within the UN, whose secretary-general had received similar complaints from the North Korean government through the intermediary of the Soviet ambassador, Yakov Malik. The secretary-general kept the ICRC abreast of all complaints relating to violations of the Geneva Conventions, in particular the alleged bombing of medical units.

In the aforementioned telegram sent to Malik on 29 August 1950, the ICRC expressed deep concern over alleged violations of the Geneva Conventions, whoever their perpetrators. It also stressed the fact that its attempts to contact North Korea had elicited no response.

In May 1951, the Women’s International Democratic Federation sent a fact-finding commission to North Korea. Its report, which the Security Council circulated as an official document, described in detail atrocities allegedly committed against civilians by US troops, all of which constituted violations of the Fourth Geneva Convention. In response to the report, the US ambassador to the United Nations, Warren Austin, sent a letter on 5 July to the secretary-general, Trygve Lie, denying the allegations and stating that UNC forces in Korea had been informed of the provisions of the four Geneva Conventions of 1949 and had received orders to comply with them at

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77 Expressedly approved and confirmed by the 17th International Conference of the Red Cross (Stockholm, 1948) in its Resolution XXII (see p. 80 above).
78 Letters of 30 October 1950 and 7 February 1952 from the ICRC to the Czechoslovak Red Cross and the Chinese Red Cross, respectively – ICRC Archives, B G 17 (172) and B AG 202 (172).
79 Minutes of the meeting of the Presidential Council held on 14 June 1951 – ICRC Archives, A PV.
all times. Moreover, he wrote, one of the roles of the ICRC, as an impartial organization, was to carry out bona fide inquiries into violations of international law allegedly committed during military operations. ICRC delegates were, he pointed out, in a position to observe the conduct of UNC forces whereas they had been denied access to North Korea. He adamantly requested that the conduct of all troops in Korea be subjected to an inquiry by an impartial organization such as the ICRC.81

In September 1951, the Women’s International Democratic Federation sent its report to the ICRC, asking for comments and suggestions. The ICRC acknowledged receipt of the report and promised to take its contents into account in pursuing any further activities in Korea.82

The ICRC also learned that the Chinese Ministry of Foreign Affairs had drawn a parallel between the statements made by Warren Austin and an appeal launched by the ICRC to the three commanders-in-chief on 3 July 1951 – the eve of armistice talks – renewing its offer of services (see below). At the time, however, the ICRC was unaware that the US ambassador had proposed that the organization carry out an inquiry into the conduct of troops in Korea.83

When it examined the matter, the ICRC noted that the statements made by the US ambassador contradicted the letters of accreditation delivered by the UNC commander-in-chief to ICRC delegates, which limited their role to conducting activities based on the Third Geneva Convention relating to prisoners of war. Furthermore, the US government was completely mistaken about the nature of the ICRC’s activities, just as the Chinese authorities were utterly wrong about the meaning of its appeal to the commanders-in-chief.84

In view of the controversy in which it now found itself embroiled, the ICRC decided85 to send all the National Red Cross Societies and ministries of foreign affairs concerned – and to publish in the Revue internationale de la Croix-Rouge – a memorandum explaining how the organization dealt with any allegations it received and describing the limits within which it could, if called upon to do so, undertake an inquiry, in conformity with the principles it had previously stated in September 1939, namely:

(1) The International Committee can undertake no enquiry except by virtue (a) of powers conferred on it in advance by a Convention or (b) of an ad hoc agreement by all the interested parties.

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81 Document s/2232, 6 July 1951 – ICRC Archives, B AG 202 (172).
83 Note of 20 September 1951 from E. de Weck to President Ruegger – ICRC Archives, A CL 30.01.12.
84 Note of 21 September 1951 from E. de Weck to President Ruegger, appended to the minutes of the working session of the Committee held on 27 September 1951 – ICRC Archives, A PV.
85 Minutes of the meeting of the Presidential Council held on 15 November 1951 and minutes of the plenary meeting of the Committee held on 21 November 1951 – ICRC Archives, A PV.
It does not constitute itself into an Enquiry Commission: it limits itself to choosing, from outside its own members, one or more persons who are qualified to carry out the enquiry. (...)

(4) The International Committee [cannot] undertake an enquiry if there [is] a risk of thereby rendering more difficult or even impossible its normal practical work for war victims, or [of compromising] its indispensable impartiality and neutrality.86

Germ warfare

In February 1952, the North Korean government again accused the US armed forces of resorting to bacteriological weapons in order to trigger epidemics of diseases such as the plague, cholera and typhoid fever among its citizens and those of China. The accusations elicited a strong reaction from the National Red Cross Societies of Bulgaria, Hungary, Poland and Romania, which asked the ICRC to denounce these crimes and to take firm measures to ensure that they did not recur. In accordance with its standard procedures, the ICRC forwarded these complaints to the American Red Cross.

On 11 March 1952, US Secretary of State Dean Acheson sent a telegram to the ICRC denying the accusations. He proposed that the ICRC conduct an independent inquiry on both sides of the front lines to establish the facts, in particular to ascertain the nature and extent of any epidemics and determine their true cause.87

The next day, taking into account both the complaints received from the National Red Cross Societies and the proposal of the US government, the ICRC informed the parties of the following:

1. Subject to the agreement of both Parties, the International Committee of the Red Cross will set up a Commission which will be under its direction. The Commission will be composed of persons who will offer every guarantee of moral and scientific independence which could be offered by experts who have the highest qualifications, especially in epidemiology. It will address itself to known specialists whom it will itself select in Switzerland; it will also invite two or three scientific experts whom it shall ask the National Red Cross Societies of Asiatic countries not taking part in the conflict to propose.

2. The above-mentioned Commission must be assured of the co-operation of the authorities on both sides of the front, and of experts whom they will nominate.88

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The ICRC asked both parties to respond without delay so that it could, once it had their consent, rapidly take the necessary measures. This message was also sent to the UN secretary-general, the UNC commander-in-chief, the National Red Cross Societies that had lodged complaints and all the governments and National Societies concerned, namely those of countries that had either sent military contingents to Korea or that were neutral and might be able to supply experts, such as India and Pakistan. It also published the terms of its proposal in the *Revue internationale de la Croix-Rouge*.

In a telegram dated 14 March, the US government agreed to the ICRC’s proposal. No reply was received from the North Koreans or the Chinese. Instead, Radio Beijing and the official Chinese news agency, Xinhua, launched a virulent campaign to discredit the ICRC, casting doubt on its ability to conduct an impartial inquiry. The campaign’s message was spread not only by the written press and radio stations of Eastern Europe but also by Western communist parties and peace movements. Because the ICRC had responded positively to the US proposal, it was accused of being at the country’s beck and call. Some critics went so far as to suggest that the ICRC had come up with the idea itself, while refusing to cooperate in other cases, for the sole purpose of informing the US on the military effectiveness of bacteriological weapons. Accusations regarding the ICRC’s attitude towards Nazi crimes during the Second World War also resurfaced. At that point, the ICRC wondered whether the entire campaign to discredit it was not simply a ploy to avoid an impartial inquiry into the allegations.

Faced with what it deemed slander, the ICRC appealed to the Chinese Red Cross to help clear its name and put an end to the attacks, but to no avail. It also issued a press release reiterating the principles governing any fact-finding activities on its part.

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91 Including the World Peace Council, which had been set up with Soviet backing and was presided by Frédéric Joliot-Curie, and its national affiliates. It was against this tense backdrop that the Swiss Federal Department of Justice prosecuted Prof. André Bonnard, president of the Swiss branch of World Peace Partisans, for allegedly making available information detrimental to Switzerland. At the request of Joliot-Curie, Bonnard had agreed in June 1952 to provide him with details on ICRC officials and their ties to business and industry. Prof. Bonnard was convicted by the Swiss Federal Tribunal in March 1954. Although he was found guilty, he merely received a suspended sentence of 15 days. The case was prosecuted without any complaint having been lodged by the ICRC. See “1948–1954, La Guerre froide en Suisse”, *Les Cahiers de l’Histoire*, Supplement to the Swiss magazine *L’Hebdo*, 5 December 1985 – ICRC Archives, CL 20, 3 February 2001.
92 Minutes of the meeting of the Commission for External Activities held on 26 March 1952 – ICRC Archives, A PV.
On 26 March, the Soviet ambassador to the UN attacked the ICRC before the Disarmament Commission, calling into question its objectivity and criticizing it for having failed to speak out about the concentration camps during the Second World War.\textsuperscript{95} The ICRC responded to the attack by sending a telegram to Yakov Malik in order to set the record straight, while forwarding copies to the Security Council, via the UN secretary-general, and to the Soviet Alliance of Red Cross and Red Crescent Societies.\textsuperscript{96}

This new salvo was enough to convince the ICRC – if there were still any need to – that its proposal had been rejected by North Korea. It was thus without any illusions that the ICRC contacted the commanders-in-chief of the North Korean and the Chinese forces on 10 April to inform them that, should they fail to reply within 10 days, the organization would consider that its offer had been turned down. The belligerent parties would then have to seek, if they so wished, other appropriate channels.\textsuperscript{97}

By remaining silent, the North Koreans and the Chinese crushed any hopes the ICRC might still have harboured about working in North Korea. On 29 April the organization announced that it was suspending the technical preparations it had begun for the deployment of its activities.\textsuperscript{98}

\textbf{Prisoners of war}

\textbf{Lists of names, family news and search for the missing}

As mentioned above, the ICRC had offered the services of the Central Prisoners of War Agency to the belligerents at the very outset of the conflict.

On 11 July 1950, the US government asked the ICRC to confirm the capture of some 50 American troops that had been announced by North Korea. The same day, the ICRC contacted the North Korean government and on 16 August it received an initial list of 50 American prisoners being held in Pyongyang.\textsuperscript{99} The ICRC immediately forwarded this list to Washington.

\textsuperscript{95} Letter of 28 March 1952 sent to the ICRC by the Swiss observer to the UN and its annexes – ICRC Archives, B AG 200 (172) and 202 (172).

\textsuperscript{96} Minutes of the meeting of the Presidential Council held on 3 April and minutes of the working session of the Committee held on 10 April 1952 – ICRC Archives, A PV. Telegram of 10 April 1952 from the ICRC to Yakov Malik – ICRC Archives, B AG 202 (172).

\textsuperscript{97} Minutes of the working session of the Committee held on 10 April 1952 and ICRC Archives, B AG 202 (172). \textit{Rec. doc. II}, No. 431 and No. 432, pp. 105–106.


Meanwhile, the Agency had received 51 capture cards for North Korean prisoners of war being held by the US and it cabled this information to Pyongyang on 4 and 11 August. Lists of prisoners’ names soon followed. However, Frédéric Bieri informed the ICRC that the North Korean prisoners did not want their names to be sent to the authorities of their country for fear of reprisals against their families.\(^\text{100}\)

Consulted on the matter, the ICRC’s legal advisers considered that the Central Prisoners of War Agency had an obligation to submit all the names of prisoners of war that it received from a belligerent party to the relevant governments.\(^\text{101}\) To withhold such names would undermine the principle of reciprocity, and a State could easily claim that none of its prisoners of war wished to have their names communicated to the authorities of their country. They also pointed out that this had been one of the arguments put forward by the Third Reich to justify withholding the names of Soviet prisoners during the Second World War.\(^\text{102}\)

The ICRC agreed with its legal advisers, considering that the wishes of individual prisoners could not be allowed to outweigh the provisions of an international treaty that had been accepted by the belligerent parties. Some members of the ICRC also feared that, should the organization refuse to forward the lists, the US might accuse it of failing to use every means at its disposal to ensure reciprocity. Moreover, the ICRC might be seen as agreeing \textit{a priori} with the suspicions expressed towards the North Korean authorities.\(^\text{103}\)

On 14 September 1950, the ICRC received a second – and final – list of 60 American prisoners of war provided by North Korea.\(^\text{104}\) This brought the total to 110 names, all forwarded on the day they were received to the prisoners’ country of origin. Despite repeated requests,\(^\text{105}\) North Korea sent no further lists to the Agency for the remainder of the war.

On the other hand, the ICRC continued to receive regularly, up to the end of the hostilities, information concerning North Korean and Chinese prisoners of war held by the UNC.

\(^{100}\) Telegram of 11 August and Note BL/569 of 10 August 1950 from F. Bieri – ICRC Archives, B G 17 (172).

\(^{101}\) The Fourth Geneva Convention of 1949 relative to the Protection of Civilians Persons in Time of War provides, in Article 140, for the possibility of withholding information wherever it “might be detrimental” to the persons concerned or to their relatives. However, this possibility was not introduced by the States in the corresponding article of the Third Geneva Convention relative to the Treatment of Prisoners of War, namely Article 123.

\(^{102}\) Consultation with the ICRC’s legal advisors on 23 August 1950 – ICRC Archives, B G 17 (172).

\(^{103}\) Minutes of the meeting of the Commission for External Activities held on 23 August 1950 and minutes of the meeting of the Presidential Council held on 24 August 1950 – ICRC Archives, A PV.


\(^{105}\) For more information on these requests, see the chapter on the Agency in \textit{Rec. doc. I}, pp. 123–147 and \textit{Rec. doc. II}, pp. 21–27.
This information was forwarded just as regularly to the Ministry of Foreign Affairs in Pyongyang, first directly and then through the North Korean embassy in Moscow, which had agreed to the Agency’s request that it serve as an intermediary in the absence of any postal services between Switzerland and North Korea other than telegrams.

As for the lists of captured Chinese, they were sent both to the North Korean authorities and to the Chinese Red Cross, the latter for the purpose of informing their families.

As of September 1950, the Agency also forwarded to the North Korean government a number of tracing requests concerning soldiers and civilians who had gone missing. No answers to these were ever received.

This lack of reciprocity prompted the US government to send an official communication to the ICRC in late January 1951 voicing its concern over the organization’s “apparent inability” in the matter. It asked the ICRC to pursue a “more aggressive policy” and requested information on its “efforts in this respect” and any plans “for future action”. During a meeting with the American consul in Geneva, the ICRC – which had until then remained relatively discreet about its approaches to Pyongyang in order to avoid jeopardizing their chances of success – provided details of its many efforts to contact the North Korean authorities, including the offer made by its president on 5 January 1951 to travel to Pyongyang via China.

During his visit to Beijing in March 1951, the ICRC president had brought up with the Chinese Red Cross the idea of setting up an Agency branch in a neutral Asian country. He had also asked the National Society to use its good offices in the search for missing persons and had presented it with a memorandum on the subject and a letter containing individual tracing requests for French and British diplomats who had been posted in Seoul when the war broke out and of whom there had been no news.

Later, in November 1951, when the Chinese Red Cross informed it that one of its medical teams was in charge of monitoring the health of prisoners of war in North Korean hands, the ICRC asked whether it could obtain news of the prisoners via this channel.

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106 Ibid.
108 Ibid.
110 Minutes of the plenary meeting of the Committee held on 2 November 1951 – ICRC Archives, A PV. Memorandum of 10 December 1951 to the attention of the president of the Chinese Red Cross – ICRC Archives, B AG 200 (172).
In December 1951 and January 1952, it had also attempted, at the suggestion of the president of the Chinese Red Cross, to obtain news of missing persons through the China Peace Committee, an organization based in Beijing and chaired by Vice-Premier Kuo Mo-jio.\(^{111}\) At the time, the China Peace Committee was trying to set up a mechanism for the exchange of news between prisoners of war and their families.\(^{112}\)

Altogether, the ICRC forwarded over 1,000 tracing requests concerning persons who had gone missing in North Korea, but no replies were ever received from Pyongyang, the Chinese Red Cross or the China Peace Committee.\(^{113}\)

Having obtained no information via official channels about persons interned in North Korea, the ICRC decided in May 1951 to send a delegate to Hong Kong in order to get hold of and forward to the Agency the names of all US prisoners of war who had reportedly signed an appeal for peace. Their names were being divulged in China at the time by the country’s radio stations and press agencies. The ICRC was encouraged to do so by the US government, whose efforts in that regard had been pre-empted by a left-wing US association that had already published the names in its journal and made direct contact with the prisoners’ families.\(^{114}\) In sending its delegate to Hong Kong, the ICRC was acting in conformity with the 1929 and the 1949 Geneva Conventions\(^{115}\) protecting prisoners of war, which provide that the Agency shall collect all the information that it can obtain “through official or private channels”. In this manner, the ICRC gathered the names of over 2,000 prisoners of war, which it forwarded to the authorities and the National Red Cross Societies of their countries of origin.

The ICRC delegate also recorded messages from allied prisoners that had been broadcast over Chinese radio waves in early 1952. The Agency sent copies of these recordings to the countries concerned. The ICRC withdrew its delegate from Hong Kong at the end of January 1952 once the broadcasts had ceased and the lists had been exchanged at Panmunjom.

**North Korean position**

The position of the North Korean and the Chinese authorities regarding visits by the ICRC to prisoner-of-war camps in North Korea was set out in a letter sent on 24 December 1951 to General Ridgway by commanders-in-chief Kim Il Sung and Peng Dehuai: “Our decision to afford decent treatment to prisoners of war in every aspect of their captivity clearly reflects the nature of our intentions and our

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\(^{111}\) Also vice-president of the World Peace Council, presided by F. Joliot-Curie.


\(^{113}\) Minutes of the meeting of the Commission for External Activities held on 9 February 1954 – ICRC Archives, A PV.

\(^{114}\) Minutes of the meeting of the Presidential Council held on 17 May 1950 – ICRC Archives, A PV.

humanitarian concerns. We consequently see no need for visits by the ICRC to prisoner-of-war camps.\textsuperscript{116}

Despite repeated representations to Pyongyang, the ICRC was unable to come to the aid of any prisoners captured by North Korean or Chinese forces, whether by visiting the camps where they were being held, carrying out Agency activities or supplying relief – which it hoped could be distributed through the Chinese Red Cross and the Soviet Alliance of Red Cross and Red Crescent Societies.

This matter was taken up by the 18th International Conference of the Red Cross held in Toronto in July and August 1952. The Conference, during which the Korean War was the subject of heated debate such as had rarely been witnessed, adopted the following resolution:

The XVIIIth International Red Cross Conference,

considering that charges have been made that prisoners of war held by the parties to the Korean conflict have been mistreated (...),

recommends to the parties engaged in hostilities in Korea who have not done so that they permit the International Committee of the Red Cross to perform its traditional role with respect to prisoners of war,

urges the International Committee of the Red Cross to invite them to designate representatives to accompany the International Committee of the Red Cross in a free and full inspection of all prisoner-of-war facilities, provided that both sides permit such an investigation on an equal basis,

requests the International Committee of the Red Cross promptly to communicate the results of inspection to all parties concerned.\textsuperscript{117}

This resolution was forwarded to the belligerent parties in November 1952, but it remained a dead letter. While the US and South Korea gave favourable replies, North Korea did not respond.\textsuperscript{118}

When Radio Beijing reported that North Korean prisoner-of-war camps had been repeatedly bombed by US aircraft, the ICRC wrote to the North Korean authorities to remind them of their obligation, under Article 23 of the Third Geneva Convention, to take the precautionary measure of marking the camps in such a way as to be clearly visible from the air. It also attempted to obtain, through the Chinese Red Cross, information on the exact location of the prisoner-of-war camps, but to no avail.\textsuperscript{119}

\begin{footnotes}
\item[116] Rec. doc. II, No. 318, pp. 7–10. See p. 517 below.
\item[118] ICRC Annual Report 1952, p. 54.
\end{footnotes}
Prisoners of war in South Korea

The ICRC began to carry out visits to prisoners of war in South Korea on 26 July 1950. These visits continued until the armistice agreement came into force in August 1953, with the sole exception of a partial two-month suspension following a number of serious incidents at the Koje-do prisoner-of-war camp in the first half of 1952. ICRC delegates had access both to the base camps, where some visits lasted as long as 10 days, and to the military hospitals, where wounded and sick prisoners were treated. They also had access to the assembly points set up behind the front lines and to the transit camps. Altogether they carried out more than 160 visits during which they distributed relief consisting mainly of hygiene articles, leisure items and educational material for the prisoners.

The counter-offensive launched in September 1950 by UNC forces rapidly led to a massive increase in the number of prisoners of war. By the end of 1950, when China’s entry into the war forced the UNC to retreat, no fewer than 100,000 prisoners had to be evacuated to the Pusan area. Beginning in early 1951, these prisoners were gradually transferred to Koje-do, an island off the southern coast of the Korean peninsula, where the US army set up ‘POW Camp 1.’ Virtually all the prisoners captured by UNC forces were eventually held in this camp – some 150,000 by mid-1951, of which 130,000 were Koreans and 20,000 Chinese. By that time, little was left in Pusan other than medical facilities.

Against a backdrop of ideological conflict, this enormous camp gradually became more difficult to control. In the beginning, it was made up of “enclosures” that were subdivided into “compounds” and then into groups of tents. The organization of daily life in the camp was mostly left up to the prisoners themselves, with each unit headed by a spokesman who was elected by his fellow inmates and approved by the detaining authorities. Each compound had its own kitchen, clinic, food supplies, stores and even artisan stalls. The prisoners had access to educational and vocational training programmes. They could also practice sports and engage in artistic activities. Discipline inside the camp was maintained by guards who were selected from among the prisoners. Given the lack of personnel available to supervise them, only a small number of prisoners (16,000 to 20,000) joined work details that were allowed to go outside the compounds. Many of the prisoners who remained inside the camp were put to work upgrading the facilities.

During the first year, from July 1950 to July 1951, ICRC delegates considered the conditions of detention inside the camp good despite major logistical problems faced by the detaining authorities in transferring and housing so many prisoners.

The situation took a turn for the worse towards the middle of 1951, however, as armistice talks got under way. The confrontation between the warring parties over the procedure for repatriating prisoners – whether it was to be forcible or voluntary – had major repercussions inside the camp. The ideological struggle, which until then had

120 Note BL/1012, Report on visit to UN POW Camp No. 1, Koje-do and Pusan, from 29 May to 9 June 1951 – ICRC Archives, C SC RR 1410, Camp Service.
been simmering beneath the surface, burst out into the open, with each faction attempting to take control of the camp. Some compounds were dominated by communist groups, others by anti-communists. Various forms of pressure, including ill-treatment and acts that drove some prisoners to commit suicide, were exerted on members of minority groups in each compound. Others were killed outright. The number of politically motivated demonstrations increased, often degenerating into violence between ideologically opposed prisoners and skirmishes with South Korean military guards who sometimes opened fire. ICRC delegates drew the attention of the detaining authorities to the worsening situation.

Attempts at political re-education undertaken by the Civil Intelligence and Education Section (CI & E) and the screening operations carried out by the detaining authorities only served to exacerbate existing tensions. This, combined with the overcrowding and the fact that discipline within the compounds was left in the hands of prisoners, soon led to a crisis of unmanageable proportions that reached its climax in the early months of 1952.

Two other issues contributed to this crisis: screening operations and the change in status of certain prisoners.

**Screening operations**

The purpose of screening operations was to determine, as the armistice talks progressed and prior to repatriation operations, which prisoners of war wished to be sent back to North Korea or the People’s Republic of China, and which would actively resist repatriation, in order to separate the prisoners into two groups.

The ICRC considered for its part that, under its mandate, it was not required to take a stand on the general principle of screening. It informed its head of delegation, however, that it saw no reason to object should the detaining power decide to separate prisoners who were bent on killing one another over ideological differences. It also believed that forcible repatriation was unthinkable in light of the Fundamental Principles of the Red Cross, which prescribed respect for the human person and, consequently, for the wishes of the individual.

The detaining power was nevertheless responsible for ensuring that screening operations did not cause disturbances in the camp leading to violations of humanitarian law (rioting, killings, etc.). It also had an obligation to respect prisoners’ freedom of choice. Given the ICRC’s position, its delegates stepped in only in very specific cases (e.g. where a prisoner claimed he had been wrongly classified) and did not supervise the screening operations as a whole.

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121 Regarding the ambivalence with which the announcement of a possible exchange of prisoners of war was greeted, see Note BL/1150, Report on visit to UN Camp No. 1, Koje-do and Pusan, 28 August to 9 September 1951, Annex 1 – ICRC Archives, C SC RR 1411, Camp Service.

122 Personal and confidential note of 25 July 1952 from the ICRC to O. Lehner – ICRC Archives, B AG 210 (172).
In December 1951, the ICRC received a message from the US Consulate General in Geneva, soon followed by a list of names, informing it that over 37,000 North Korean prisoners of war had been reclassified as civilian internees. This was the result of a UNC investigation establishing that the prisoners had been living in South Korean territory prior to 25 June 1950 and had consequently been recognized as citizens by the South Korean government. For security reasons, they were to remain in UNC hands until a further investigation was concluded and the decision had been taken to free them.\(^\text{123}\)

According to the UNC, the prisoners had been conscripted into the North Korean army\(^\text{123}\). The ICRC forwarded the list of names to North Korea, a step that coincided with the wishes of the US authorities.

Although the change in status violated the inalienable rights of prisoners of war as guaranteed under the Third Geneva Convention, the ICRC made no representations to the US in that respect. Its grounds for not doing so were the “mixed” nature of the conflict – both internal and international – and the ensuing difficulty in establishing which provisions of the Conventions applied. Moreover, the change in the prisoners’ status involved determining their nationality, a process that did not come within the ICRC’s purview, and resolving the issue of forcible repatriation. Most importantly for the ICRC was the fact that its delegates continued to have access to the prisoners, who – in accordance with the guarantees given by the US authorities – still enjoyed the rights and prerogatives that they had been entitled to as prisoners of war. The delegates also noted that most of the prisoners were eventually freed.\(^\text{124}\)

In May 1953, the ICRC received a second list of 11,000 prisoners of war who had been reclassified as civilian internees, which it again forwarded to the North Korean government.

**Events at Koje-do and their aftermath**

On 18 February 1952, during a screening process carried out before daybreak under the supervision of armed soldiers, violence broke out in Compound 62 of POW Camp 1 at Koje-do. This compound held some 6,000 former prisoners of war who had been recognized as South Koreans and reclassified as civilian internees. During the incident, 69 internees died, 142 were hospitalized for serious wounds and many others had to be treated for minor injuries at the compound clinic. Several US soldiers were wounded and one died.\(^\text{125}\)


\(^{124}\) Minutes of the working session of the Committee held on 10 April 1952 – ICRC Archives, A PV. Note No. 353 of 19 February 1952 from the ICRC to its delegation for Korea. Note of 26 March 1952 from R.-J. Wilhelm and note of 5 March 1952 from C. Pilloud on the change of status of prisoners of war to civilian internees in South Korea – ICRC Archives, B AG 210 (172).

\(^{125}\) According to the figures given to ICRC delegates by UNC headquarters in Tokyo.
During the initial screening carried out by the UNC in early 1951, the prisoners held in Compound 62 had asked not to be sent back to North Korea after the armistice. However, a number of them had subsequently reversed their position. The detaining authorities had therefore decided to carry out a second screening, to which the internees had objected, claiming that pressure had been brought to bear on them during the first screening.

At the time of the incident, two ICRC delegates had already been at Koje-do for 10 days conducting a visit. On the morning of 18 February, they returned to Compound 62, which they had last seen on 8 and 9 February. After being informed of the serious nature of the events, they spoke with a committee made up of internees and with their spokesman.

Two days later, the head of the ICRC delegation in Tokyo, Otto Lehner, was informed of the incident by the UNC, which asked him to carry out an inquiry. After reminding the UNC of the rules governing such a process, Lehner instructed the delegates in Koje-do to draw up a special report on the events.\footnote{Note No. 142 of 29 February 1952 from O. Lehner to the ICRC and its annex (special report of 26 February 1952 on the events at UN POW Camp No. 1 at Koje-do on 18 February 1952) – ICRC Archives, B AG 210 (172).}

On 21 February, the delegates took down an oral statement made by the prisoners’ spokesman. They also interviewed the camp commander and his predecessor, who had been relieved of his duties following the incident and who provided a written statement.

Meanwhile, the incident made headlines in the press, and the North Korean and Chinese delegations in Panmunjom accused UNC forces of committing atrocities.

On 12 March, the ICRC Commission for External Activities examined the report drawn up by the delegates and sent a telegram to the two parties informing them that they would receive a copy as soon as it had been finalized, in accordance with customary procedure. Since the beginning of the conflict, the ICRC had submitted reports on its visits to the two parties: on the one hand, the North Korean government and on the other, the US and the South Korean governments, the UNC and the UN Secretariat – the UN being considered as operating under a mandate conferred on it by the US.\footnote{Minutes of the meeting of the Presidential Council held on 8 March 1951 – ICRC Archives, A PV.}

The UNC in Tokyo, having learnt of the ICRC’s intention to send the report to the North Korean government, objected on the grounds that the issue did not concern the North Koreans since the victims of the incident had been granted the status of civilian internees and were no longer prisoners of war.\footnote{Letter of 15 March 1952 from Major General Bryan Milburn, Assistant Chief of Staff GI, to O. Lehner – ICRC Archives, B AG 210 (172).} Shortly thereafter, the ICRC received a message to the same effect from the US Consulate General in Geneva.\footnote{Note of 27 March 1952 from F. Horneffer to the members of the Commission for External Activities, Annex 6 – ICRC Archives, B AG 210 (172). Letter of 7 April 1952 from the US consul in Geneva – ICRC Archives, A CL 30.01.21}
The politicization of this matter placed the ICRC in an awkward position. First of all, it did not believe that any conclusions could be drawn from the small amount of information gathered by its delegates – whom in any event it faulted for their lack of vigilance. Secondly, it feared that by submitting the report to the two parties it would incur the wrath of the US, all the more so as it had not gained access to the prisoners in North Korean hands, and that it would fuel antagonisms in Panmunjom. On the other hand, by failing to send the report to North Korea after having promised to do so, it would betray its own principles and risk being accused of sweeping the whole affair under the carpet. After over a month of deliberation, and in consultation with the US, the ICRC finally decided to publish the main points covered by the report in the *Revue internationale de la Croix-Rouge*. This included the delegates’ findings before and after the incident of 18 February, the written statement submitted by the former camp commander and the comments made by the prisoners’ spokesman.

In publishing the report – which it sent on 7 May to the governments of South Korea, North Korea and the US, to the UN Secretariat and to UNC headquarters – the ICRC stressed that the information gathered by its delegates, who had not personally witnessed the events, could not be construed as evidence for an inquiry. It further pointed out that, under Article 121 of the Third Geneva Convention, it was up to the detaining power to undertake an inquiry into any incident in which prisoners had been injured or lost their lives and to decide on any punishment to be meted out. The ICRC reminded the parties that it could not determine whether any provisions of the Conventions had been violated unless it was asked to do so unanimously by all the parties. It also stated that the North Korean authorities had shown no sign of interest in the 50-odd reports that it had sent them concerning its visits to prisoners.

In view of North Korea’s silence, and to ensure that the information gathered by its delegates was not used for propaganda purposes, the ICRC decided not to send any more reports on its visits directly to the governments concerned on either side. Its delegates nevertheless continued to communicate their findings to the relevant detaining authorities at all levels and to make representations, both oral and written, urging those authorities to make necessary improvements.

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130 Minutes of the meetings of the Commission for External Activities held on 12 and 26 March 1952. Minutes of the meetings of the Presidential Council held on 3 and 17 April 1952. Minutes of the working sessions of the Committee held on 10 and 24 April 1952 – ICRC Archives, A PV. Note of 27 March 1952 from F. Horneffer to the members of the Commission for External Activities, and Note No. 422 of 5 May 1952 from the ICRC to its delegation for Korea – ICRC Archives, B AG 210 (172). Notification of 13 February 1953 concerning the decision to stop sending reports on visits to camps in South Korea to the power of origin and to the detaining power – ICRC Archives, A VM, working papers of Frédéric Siordet.


132 Minutes of the meeting of the Presidential Council held on 1 May 1952 and minutes of the meeting of the Commission for External Activities held on 25 June 1952 – ICRC Archives, B AG 225 (172).
Further incidents – in which South Korean soldiers guarding the camps were also involved – caused more loss of life and injuries in other compounds at Koje-do over the ensuing weeks.

ICRC delegates met with the detaining authorities repeatedly to keep them informed of the situation, which they feared was becoming increasingly dangerous. In a meeting with General Ridgway on 25 March,\textsuperscript{133} Otto Lehner proposed three ways of reducing tensions: first of all, to withdraw all South Korean guards from Koje-do, as their presence among their compatriots could provoke further incidents; secondly, to prohibit all forms of political assembly and to cancel the political re-education programme for prisoners, in which many refused to take part; and lastly, to subdivide the enormous Koje-do camp into smaller units that would be easier to keep under control.

These proposals, which were well received by the UNC commander-in-chief, were summed up in a memorandum sent by the ICRC to the US government on 12 May 1952. Pursuant to Article 42 of the Third Geneva Convention, the ICRC also lodged a complaint about two incidents in which US and South Korean troops opened fire on prisoners.\textsuperscript{134}

The situation reached a critical point on 7 May, when the camp commander was held hostage for four days by the prisoners. Although the detaining authorities successfully negotiated his release, they withdrew the ICRC’s authorization to visit the compounds where the disturbances had taken place, arguing that its delegates’ safety could not be guaranteed until order had been restored. Lehner strongly objected to this restrictive measure, which prevented ICRC delegates from entering compounds where important events were unfolding. In early June, the ICRC deputy executive director, David de Traz, went to Tokyo to inform the UNC of the ICRC’s wish to continue its visits and to stress the treatment to which prisoners of war were entitled.\textsuperscript{135}

The ICRC’s visits to Koje-do, which had been suspended since 11 May 1952, finally resumed on 6 July.

In the meantime, with the disturbances continuing,\textsuperscript{136} the detaining authorities had completely reorganized the camp and screened all the prisoners once again. The camp had been dismantled and rebuilt into 13 separate base camps situated not only at Koje-do but also on the islands of Pongam-do, Yoncho-do and Cheju-do, and on the South Korean peninsula. Insofar as possible, prisoners of the same nationality and

\textsuperscript{133} Note No. 125 of 26 March 1952 from O. Lehner to the ICRC – ICRC Archives B AG 210 (172).


\textsuperscript{135} Notes No. 221 and 222 of 17 May 1952 from O. Lehner to the ICRC – ICRC Archives, B AG 210 (172). Minutes of the meeting of the Commission for External Activities held on 25 May 1952 and minutes of the plenary session of the Committee held on 29 May 1952 – ICRC Archives, A PV. Report of 26 June 1952 by D. de Traz on his trip to Tokyo from 4 to 21 June 1952 – ICRC Archives, B AG 251 (76).

\textsuperscript{136} E.g. at the hospital for prisoners of war in Pusan. \textit{Rec. doc. II}, No. 351, pp. 39–40, and No. 353, pp. 42–43.
political opinions had been grouped together.\textsuperscript{137} As it had done since the onset of the conflict, the ICRC, acting at the request of the US authorities, notified the North Korean government of the location of the new camps.

In response to the ICRC’s memorandum of 12 May, the US consul general had sent a \textit{note verbale} to the organization informing it of the changes made at Koje-do – not just the dismantling of the camp but also the cutback in the number of South Korean soldiers guarding the premises and the cancellation of the re-education programme for communist prisoners – and suggesting that the ICRC’s proposals had played a part in the overhaul.\textsuperscript{138}

After resuming their visits, ICRC delegates took advantage of the camp’s wholesale reorganization to make various recommendations. In Koje-do, where the old infrastructure had been razed, a delegate remained on the spot for a month to advise the commander on how to ensure satisfactory material conditions of detention, to pass on the prisoners’ requests and complaints and to inform the prisoners’ spokesmen of their rights and duties.

The conditions were initially considered unsatisfactory with regard to housing, heating, sanitation, clothing, diet and medical care. The recommendations made by the delegates soon led to improvements, and the conditions were deemed satisfactory again by the end of 1952 – both in the camps for communist prisoners and in the other camps.

As for the treatment of prisoners, it differed markedly between the two types of camps. In the camps for communist prisoners, the commanders had been instructed to maintain strict discipline and order by any means required to avoid a recurrence of the disturbances that had taken place in the spring of 1952. Security concerns were such that leisure activities, including intellectual pursuits, had been severely curtailed (books, paper and pencils were all forbidden). Harsh measures were taken to punish disobedience both by individuals – ICRC delegates noted repeated complaints of ill-treatment – and by groups, towards which extreme caution was exercised, especially regarding the possession of firearms.\textsuperscript{139} The tension between the communist prisoners and their guards was the most intractable problem facing the delegates.\textsuperscript{140}

Otto Lehner held many discussions with General Clark and other UNC officials about the situation in the camps.\textsuperscript{141} On 17 November 1952, he sent a memorandum

\textsuperscript{137} Note No. 267 of 10 July 1952 from O. Lehner to the ICRC and its annexes – ICRC Archives, B AG 210 (172).

\textsuperscript{138} Note \textit{verbale} of 28 July 1952 from the US consul general to the ICRC and Note No. 478 of 13 August 1952 from the ICRC to its delegation for Korea – ICRC Archives, B AG 210 (172).

\textsuperscript{139} See G. Hoffmann’s report of 24 October 1952 on the incident that took place on 1 October in Compound No. 7 of UN POW Branch Camp 3 A, Cheju-do, and in which 51 Chinese prisoners of war were killed and many more wounded during a political demonstration marking China’s national day – ICRC Archives, B AG 210 (172).

\textsuperscript{140} Note of 13 January 1953 by E. de Weck on the general situation of prisoners of war in Korea – ICRC Archives, B AG 210 (172).

\textsuperscript{141} Note No. 391-53 of 6 January 1953 by O. Lehner on his conversation with General Clark – ICRC Archives B AG 210 (172).
to the UNC summing up the main problems. The UNC responded by agreeing to issue orders requiring the use of more humane methods and to investigate alleged cases of ill-treatment.\footnote{Note No. 373 of 8 December 1952 by O. Lehner and its annexes – ICRC Archives B AG 210 (172).}

Although most of the communist prisoners’ spokesmen requested that an ICRC delegate be present in the camps at all times, arguing that this would alleviate their problems and afford them protection, Lehner concluded that visits by delegates were more effective than a permanent presence. He believed that any delegate who stayed with the prisoners round the clock would eventually either lock horns with camp authorities or, on the contrary, be seen as siding with those authorities, thus undermining the effectiveness of the ICRC’s action.\footnote{Note No. 442 of 2 March 1953 from O. Lehner to the ICRC – ICRC Archives, B AG 210 (172).}

By early 1953, with the conditions of detention having improved considerably in the camps where communist prisoners were held, Lehner noted with satisfaction that his efforts had borne fruit.\footnote{Note No 442 of 2 March 1953 from O. Lehner to the ICRC – ICRC Archives, B AG 210 (172).}

On 10 March 1953, the ICRC sent the US government – which no longer received reports on its visits – a memorandum detailing changes in the conditions of detention of prisoners of war since the summer of 1952.\footnote{Memorandum of 10 March 1953 from the ICRC to the US Consulate General in Geneva – ICRC Archives, B AG 210 (172).}

**Repatriation of “seriously wounded and seriously sick” prisoners of war**

As early as January 1951, the ICRC delegation had drawn the attention of UNC headquarters to Articles 109 and following of the Third Geneva Convention providing for the repatriation during hostilities of “seriously wounded and seriously sick” prisoners of war.\footnote{Note No 34 of 24 January 1951 from J. de Reynier to the ICRC – ICRC Archives, B AG 264 (172).}

After receiving a favourable reply from the UNC, the ICRC sent a telegram on 8 May to the North Korean government asking for its position on the matter and handed over a related memorandum to the president of the Chinese Red Cross during her visit to Geneva in mid-May.\footnote{Telegram of 30 April 1951 from F. Bieri to the ICRC. Telegram of 8 May 1951 from the ICRC to the North Korean minister of foreign affairs. Aide-mémoire handed over on 14 May 1951 to the president of the Chinese Red Cross – ICRC Archives, B AG 264 (172). Rec. doc. I, No. 239, No. 240 and No. 241, pp. 180–181.}

Although these approaches elicited no reply, the UN delegation in Panmunjom drew up an official proposal on the matter in December 1951.\footnote{Letter of 1 April 1953 from President Ruegger to the British foreign secretary, Sir Anthony Eden – ICRC Archives, B AG 264 (172).}
On 22 February 1953, General Clark reiterated his proposal for an exchange of wounded and sick prisoners to commanders Kim Il Sung and Peng Dehuai, who accepted it on 28 March.

As soon as it heard this news, the ICRC instructed its delegation – to whose ranks an experienced doctor was immediately added – to stand ready to take part in repatriation operations conducted by the UNC, in particular by assisting in the transport of prisoners. The ICRC also asked its delegation to remind the UNC of the role of “mixed medical commissions”, whose members the ICRC was to help appoint. Lastly, it made known that it would in principle agree, should any prisoners refuse to be repatriated, to take the necessary steps to ascertain that they were doing so of their own free will. However, two conditions would first have to be met: the UNC must officially request the ICRC’s services and the adverse party must be informed and be offered the same services for the prisoners in its hands. Although Article 118 of the Third Convention provides for the general repatriation of all prisoners of war after the cessation of hostilities, Article 109 expressly states that “no sick or injured prisoner of war (…) may be repatriated against his will during hostilities”.

For fear of derailing the prisoner exchange, the UNC decided not to take up the ICRC’s proposals – either to appoint mixed medical commissions or to ascertain whether the prisoners had been able to express their own free will.

ICRC delegates held numerous discussions with the authorities in charge of organizing repatriation operations at all levels in order to ensure that the greatest number of wounded and sick prisoners were allowed to go home. To that end, they visited the hospitals and camps where the prisoners were being held. Thanks to their efforts, the detaining authorities agreed to repatriate 685 additional captives.

During the repatriation operations, which were conducted from 20 April to 3 May 1953, ICRC delegates escorted four of the 14 boats carrying the prisoners from the islands of Koje-do and Cheju-City to Pusan and eight of the 14 trains conveying them from Pusan to Musan-ni, a town close to the neutral zone of Panmunjom, where the exchange took place. This enabled the delegates to observe the conditions in which the prisoners were transferred and to note their state of health. Before the prisoners boarded the boats, the camp commander at Koje-do asked the delegates to attend their final questioning, which was to take place in the presence of a South Korean government representative, in order to ascertain whether they wished to be repatriated. The delegates refused to do so, however, in view of the position previously adopted by the UNC and the political overtones that the presence of a South Korean official would lend to the questioning.

A total of 6,670 seriously wounded and seriously sick prisoners – 1,030 Chinese and 5,640 North Koreans – were repatriated by the UNC, while North Korean and

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149 Such commissions were in charge of examining prisoners of war and determining whether they were to be repatriated, under Art. 112 and Annex II of the Third Geneva Convention.
150 Aide-mémoire of 20 March 1953 from R. Gallopin to Dr J.-M. Rubli – ICRC Archives, B AG 210 (172).
Chinese forces handed over 684 prisoners from almost all the countries that had sent troops to fight under the aegis of the United Nations.\footnote{Note No. 481 of 11 May 1953 from O. Lehner to the ICRC. Report on the exchange of wounded and sick prisoners of war from 20 April to 3 May 1953 drawn up by the ICRC on the basis of information gathered by its delegates – ICRC Archives, B AG 264 (172).}

During the repatriation operations, the ICRC donated 4,000 dollars to the South Korean Red Cross to assist invalid South Korean prisoners who had been repatriated from North Korea.

**General repatriation of prisoners of war**

On 3 July 1951 – the eve of armistice talks – the ICRC renewed its offers of services to the two belligerent parties regarding assistance to all war victims. This included facilitating the return home of those who had been displaced.\footnote{Telegrams of 3 July 1951 from the ICRC to the commanders-in-chief of the North Korean forces, the Chinese “volunteers” and the UNC – ICRC Archives, B AG 202 (172). Rec. doc. I, No. 53, p. 41.}

A few days later the ICRC learnt through unofficial channels that the British government had sent General Ridgway a draft plan for the repatriation of prisoners of war, which included ICRC participation. The ICRC let it be known that it would respond favourably to any such request.\footnote{Letter of 6 July 1951 addressed by the Swiss Federal Department of Foreign Affairs directly to the president of the ICRC – ICRC Archives, B AG 210 (172). Letter of 23 July 1951 from the same source to the ICRC – ICRC Archives, A CL 19.01.09. Minutes of the working session of the Committee held on 12 July 1951 – ICRC Archives, A PV.}

On 6 August, the ICRC wrote again to the commanders-in-chief of the two parties, urging them not to allow the possible extension of their negotiations to stand in the way of assistance for prisoners of war and asking those authorities that had not yet done so to grant it access to the prisoners without delay.\footnote{ICRC Archives, B AG 202 (172). Rec. doc. I, No. 55, pp. 42–43.} The only reply came from General Ridgway, who was open to the ICRC’s offer of services.\footnote{Telegrams of 9 and 14 August 1951 from the US Consulate General to the ICRC – ICRC Archives, B AG 200 (172). Rec. doc. I, No. 56 and No. 58, pp. 43–44.}

The armistice negotiations then ground to a halt for several months.

In mid-December 1951, shortly after the negotiations resumed – again raising hopes for the exchange of all prisoners of war – the ICRC sent a telegram to Premier Kim Il Sung and General Nam Il, head of the North Korean contingent of the Military Armistice Commission, urging them to allow its delegates to discharge their duties under the Geneva Conventions in North Korea.\footnote{Telegrams of 15 December 1951 from the ICRC – ICRC Archives, B AG 210 (172). Rec. doc. I, No. 98 and No. 99, pp. 75–76.} The ICRC also asked Otto Lehner to make arrangements to travel to Panmunjom for a meeting with North
Korean and Chinese representatives.\textsuperscript{157} Lehner was to take a letter from President Ruegger to commanders-in-chief Kim Il Sung and Peng Dehuai requesting that they grant an interview to the ICRC head of delegation and examine with him all possible ways of coming to the aid of prisoners of war.\textsuperscript{158}

Since the UNC had reiterated its willingness to have the ICRC take part in repatriation operations, the organization sent six more delegates to South Korea.\textsuperscript{159}

With logistical assistance from the UNC, Lehner and another delegate reached Panmunjom on 16 January 1952. Lehner handed President Ruegger’s letter over in person to Major General Lee Sang Cho, a member of the delegation representing the North Koreans and the Chinese – whom he approached virtually by force – saying that he would come back for the reply on 21 January. On the appointed day, Lee Sang Cho handed Lehner a copy of a letter previously sent by commanders-in-chief Kim

\textsuperscript{157} Telegram of 15 December 1951 from the ICRC to its head of delegation for South Korea – ICRC Archives, B AG 210 (172), Rec. doc. I, No. 103, p. 78.

\textsuperscript{158} Minutes of the meeting of the Presidential Council held on 10 January 1952 – ICRC Archives, A PV.

\textsuperscript{159} Minutes of the meeting of the Commission for External Activities held on 19 December 1951 – ICRC Archives, A PV. After negotiations had failed, the ICRC pared down its staff in South Korea to a head of delegation and two other delegates.
Il Sung and Peng Dehuai to General Ridgway on 24 December 1951.\textsuperscript{160} After stating that the treatment of prisoners of war in their hands was “humane in all respects”, the commanders made the following proposal concerning repatriation:

Nevertheless, once the armistice has been signed and has come into effect, and to ensure that prisoners of war on both sides are under protective escort, we propose that a mixed delegation be set up, composed of delegates of the Red Cross Societies of the People’s Democratic Republic of Korea and of the People’s Republic of China, and of the ICRC. This delegation would be divided into different groups and visit prisoner-of-war camps on both sides, and at the same time cooperate in arranging for repatriation at the exchange centres.\textsuperscript{161}

This proposal shows the extent to which North Korea and China viewed the ICRC as a representative of the UN and the UNC – or wished to attribute that role to it.

Moreover, the presence of the ICRC at Panmunjom was strongly denounced by the Chinese press and radio stations, which accused the US of having violated the principle of neutrality by bringing the two delegates into the neutral zone and the ICRC of involving itself in politics. Lehner was also personally attacked in connection with his role as head of delegation in Berlin during the Second World War. The ICRC defended itself against these accusations, urging the Chinese Red Cross to demand retractions from the media, but to no avail.\textsuperscript{162}

The ICRC nevertheless replied to the joint Chinese-Korean letter in a telegram sent on 13 February. After reiterating its readiness to discharge its mandate with regard to the two parties, whether or not an armistice was concluded, it continued by saying:

ICRC naturally also stands ready to step in after conclusion of armistice but your proposal suggests that it work only with North Korean and Chinese Red Cross Societies. ICRC hereby stresses that, since its activities within such commissions must remain strictly independent and impartial, it considers that the National Societies of both belligerent parties should be represented. ICRC fundamentally independent from any National Red Cross Society or group of Societies and its action, whose purpose is to assist war victims of all countries without representing any one of them in particular, must remain distinct from that of the Red Cross Societies. On the basis of these principles, ICRC stands ready to cooperate with mixed commissions composed of representatives of both parties, provided its strictly disinterested participation is deemed useful and acceptable by all.\textsuperscript{163}

\textsuperscript{160} Report of 24 January 1952 from O. Lehner on his trip to Panmunjom – ICRC Archives, B AG 252 (172).
\textsuperscript{163} ICRC Archives, B AG 210 (172). \textit{Rec. doc. II}, No. 320, pp. 11–12.
If the ICRC had simply agreed to the proposal made by the two commanders, it would have joined the mixed commissions as a representative of the UNC, a step that was clearly unacceptable to the organization.

Following a new phase in the negotiations, the two parties finally agreed on a procedure involving the participation of mixed teams made up of members of the Red Cross Societies of the warring parties but excluding the ICRC, namely the National Societies of the States that had contributed troops to the UNC, on the one hand, and the North Korean and Chinese Red Cross Societies, on the other.\footnote{Letter of 13 February from the US consul general to the ICRC – ICRC Archives, B AG 210 (172). Rec. doc. II, No. 360, pp. 52–53. Minutes of the working session of the Committee held on 14 February 1952 and minutes of the meeting of the Commission for External Activities held on 27 February 1952 – ICRC Archives, A PV.}

In order to avoid any misunderstandings – especially any confusion between the roles of the ICRC and the UN – the ICRC sent a telegram on 5 March to the commanders-in-chief of both the North Korean and the Chinese forces stressing its independence and asking them to reconsider their attitude towards the organization and allow it to carry out its activities in their territory.\footnote{ICRC Archives, B AG 210 (172). Rec. doc. II, No. 322, pp. 13–14.}

Meanwhile, armistice talks dragged on as the warring parties, both invoking the Third Geneva Convention, continued to disagree. Citing Article 118, which provides that “prisoners of war shall be released and repatriated without delay after the cessation of active hostilities”, and Article 7, which provides that “prisoners of war may in no circumstances renounce in part or in entirety the rights secured to them by the present Convention”, the North Koreans and the Chinese insisted that repatriation was compulsory and remained so regardless of the wishes of individual prisoners. In their view, Article 7 precluded any refusal to be repatriated. They also alleged that pressure had been exerted on the prisoners who could therefore not be considered as having freely expressed their opinions. The UNC, which based its position on the spirit rather than on the letter of the law, demanded that repatriation be voluntary. It held that the primary aim of the Convention was to protect prisoners of war and that its provisions could therefore not be interpreted as allowing forcible repatriation that might expose them to political persecution or as prohibiting the parties from taking their wishes into account.\footnote{Minutes of the working session of the Committee held on 6 November 1952, Annex D 240 – ICRC Archives, A PV. For further details on the positions adopted by the two parties on this matter, see Christiane Shields Delessert, Release and Repatriation of Prisoners of War at the End of Active Hostilities: A Study of Article 118, Paragraph 1, of the Third Geneva Convention Relative to the Treatment of Prisoners of War, Etudes suisses de droit international, Vol. 5, Zurich, Schulthess Polygraphischer Verlag, 1977, pp. 157–163.}

These diametrically opposed views of the relations between individuals and the State touched on one of the war’s underlying causes – the ideological differences between the parties.

In October 1952, the US suspended the armistice talks and submitted the question of prisoners of war to the UN. The General Assembly then adopted, on 3 December
1952, a resolution affirming “that force shall not be used against prisoners of war to prevent or effect their return to their homelands, and that they shall at all time [sic] be treated humanely in accordance with the specific provisions of the Geneva Convention and with the general spirit of the Convention”. This was tantamount to confirming the principle of voluntary repatriation.

At the end of March 1953, the commanders of the North Korean and the Chinese forces agreed to go forward with the exchange of wounded and sick prisoners of war while declaring their willingness to resume armistice talks and to take up the overall issue of prisoners once again.

On 8 June 1953, the two parties finally concluded an agreement on the repatriation of prisoners of war, but the “escape” of 27,000 North Korean prisoners who did not want to be sent home, arranged ten days later by the government of Syngman Rhee, again delayed the signature of the armistice, this time until 27 July 1953.\textsuperscript{167}

The repatriation agreement called for two phases. During the first phase, all prisoners of war who were willing to go would be sent home within 60 days following the signature of the armistice. This operation was to take place under the aegis of a bipartite Committee for Repatriation of Prisoners of War with the help of joint Red Cross teams – composed of representatives of the National Societies whose countries had contributed troops to the UNC and representatives of the North Korean and the Chinese Red Cross Societies – whose task was essentially to look out for the welfare of the prisoners. During the second phase, prisoners who had opted out of their right to repatriation were to be transferred to the demilitarized zone and handed over to a Neutral Nations Repatriation Commission made up of five countries, including India, which was to chair the Commission. Indian troops were to guard the prisoners, and the Indian National Society was to provide them with essential Red Cross services. A procedure was also set up to ensure that the countries of origin could inform their nationals of all necessary details concerning repatriation, while the prisoners would retain their freedom of choice. Those prisoners who did not exercise their right to repatriation would have their status changed from prisoner of war to civilian and would be allowed to leave for a neutral country.\textsuperscript{168}

Once the ICRC had been informed of these measures, and although the UNC had spontaneously welcomed its participation south of the demarcation line, the organization decided to suspend its activities as soon as the armistice came into effect. With respect to prisoners of war who were eligible for immediate repatriation, this meant as soon as the joint Red Cross teams were present in the camps. With respect to prisoners who had refused repatriation, it meant as soon as they were transferred to the demilitarized zone. Aware of the difficulties to which the mere mention of its name could give rise on the side of North Korea and China, the ICRC sought to avoid – in the interest of the prisoners – taking any step that might hinder repatriation operations.

\textsuperscript{167} Note No. 510 of 20 June 1953 from N. Burckhart and G. Hoffmann to the ICRC and Note No. 512 of 27 June 1953 from O. Lehner to the ICRC – ICRC Archives, B AG 210 (172).

It nevertheless made it clear, especially in response to queries from National Societies, that its decision was dictated solely by the specific conditions governing the Korean conflict and should not be considered as a precedent for the International Red Cross. Owing to its specifically neutral character, the ICRC still considered that it was best placed to supervise the implementation of humanitarian principles. The National Societies of the detaining powers could not, in its view, take its place as they had specific obligations towards their own nationals and governments.  

The ICRC conveyed its decision to the UNC by the end of July, stating that it remained available should the two parties deem its participation useful.  

During the first phase of the repatriation operation, which kicked off in early August and came to a close on 6 September 1953, the UNC repatriated some 75,800 prisoners of war, including over 70,000 North Koreans and 5,600 Chinese. The North Korean and Chinese commands repatriated close to 12,800 prisoners, including over 7,800 South Koreans, nearly 3,600 Americans and about one hundred British nationals, with the remainder hailing from 12 other countries. As planned, the joint Red Cross teams took part in this phase.

Meanwhile, ICRC delegates continued to visit prisoners who were not eligible for immediate repatriation and escorted certain convoys to the demarcation line. From 8 to 25 September, some 23,000 prisoners (15,000 Chinese and 8,000 North Koreans) were transferred to the demilitarized zone, while 360 were sent in the opposite direction.

Lastly, the Neutral Nations Repatriation Commission returned virtually all Chinese and North Korean prisoners in its hands to the UNC, which freed them immediately. It also returned nearly all the prisoners who had been placed in its care by North Korea and China to those two countries, which eventually freed them. As for the one hundred or so prisoners who had asked to be transferred to a neutral nation, they were handed over to India in early 1954.

ICRC position on Article 118 of the Third Convention

During the conflict, the ICRC refused to take an official stand on the interpretation of Article 118 of the Third Convention. It contended that it was up to the States parties – not the ICRC – to provide an authoritative reading of the Conventions. It also argued that the legal situation was far too complex, as most of the parties to the conflict were not formally bound by the Conventions. To compound these difficulties,
the conflict was “mixed” in nature – both internal and international – and highly politicized. Crucially, the ICRC did not want to take any steps that might discourage nations from ratifying the Conventions.\footnote{When the Korean War broke out, only two States had ratified the newly minted 1949 Conventions. By the end of the conflict, 26 States had done so but none of the main belligerents. Of the five major powers, only France was a party to the Conventions.}

In practice, however, the ICRC made sure that its delegates were aware of its right of initiative,\footnote{This right was already recognized in the 1929 Convention relative to the Treatment of Prisoners of War and it is set forth in Art. 9 of the Third Geneva Convention of 1949, which stipulates that “The provisions of the present Convention constitute no obstacle to the humanitarian activities which the International Committee of the Red Cross or any other impartial humanitarian organization may, subject to the consent of the Parties to the conflict concerned, undertake for the protection of prisoners of war and for their relief.”} which provided grounds for intervening in cases of forcible repatriation. It was on the basis of this right that its delegates handed over to the UNC petitions they had received, during their visits to the camps, from Chinese prisoners of war opposed to repatriation.\footnote{Letter of 2 November 1951 from O. Lehner to the UNC – ICRC Archives, B AG 210 (172). Rec. doc. I, No. 242, p. 182.}

By the end of the conflict, the ICRC considered that the time was ripe to adopt a position on the interpretation of Article 118. This task was entrusted to the ICRC’s Legal Commission, which reached the following conclusions:

Prisoners of war have an inalienable right to be repatriated once active hostilities have ceased. In parallel, (...) it is the duty of the Detaining Power to carry out repatriation and to provide the necessary means for it to take place.

No exception may be made to this rule unless there are serious reasons for fearing that a prisoner of war who is himself opposed to being repatriated may, after his repatriation, be the subject of unjust measures affecting his life or liberty, especially on grounds of race, social class, religion or political views, and that consequently repatriation would be contrary to the general principles of international law for the protection of the human being. Each case must be examined individually.

No propaganda or pressure may be directed at prisoners of war with a view to persuading them to object to repatriation.

The supervisory bodies must be able to satisfy themselves without any hindrance that repatriation requests have been made absolutely freely (...).

The rules (...) do not apply to prisoners of war who have been illegally enrolled in the armed forces of the enemy State (for instance, the inhabitants of occupied territories who have been forced to enlist in the army of the Occupying Power) or to deserters who go over to the enemy side.\footnote{Minutes of the plenary meeting of the Committee held on 5 August 1954 – ICRC Archives, A PV.}
The ICRC nevertheless underscored that these rules assumed that belligerents had applied the Convention as a whole, according to the letter and the spirit of the law, which was clearly not the case during the Korean War.

This interpretation of Article 118 was set forth in the *Commentary* on the 1949 Geneva Conventions subsequently published by the ICRC.\textsuperscript{176}

Guerrilla forces

In December 1951, following the news that a major military operation had been launched by South Korea against guerrilla forces, Lehner took it upon himself to draw the attention of the South Korean authorities to Article 3 common to the four Geneva Conventions of 1949, requesting that their forces be informed of its provisions. Soon thereafter, he asked for and received authorization to visit the camps where captured combatants were being held.\textsuperscript{177}

From February to July 1952, ICRC delegates conducted a half a dozen visits to three places of detention – the main one being the Kwangju prison camp in the south-western part of the peninsula – where several thousand prisoners were being held at the time. They found the conditions of detention on the whole satisfactory, with the exception of health care. Medical facilities and medical personnel fell far short of needs, and many wounded prisoners died for lack of care. Recommendations made by the delegates eventually led to an improvement in the situation.

Lehner therefore focused his efforts mainly on the status and treatment of prisoners, some of whom were to face trial. On 6 March 1952, he sent a note to the South Korean Ministry of Foreign Affairs, drawing attention to Article 4(2) of the Third Geneva Convention, which stipulated that members of “organized resistance movements” should be granted the status of prisoner of war provided they fulfilled the four conditions stated therein.\textsuperscript{178} He requested that all captured combatants in that category be considered as prisoners of war. As for the other captives, he referred the Ministry to Article 3 common to the four Conventions, which prohibited

\textsuperscript{176} Jean S. Pictet (ed.), *The Geneva Conventions of 12 August 1949: Commentary*, Vol. III, J. de Preux, *Geneva Convention Relative to the Treatment of Prisoners of War*, ICRC, Geneva, 1960, pp. 540–552. Subsequently, in view of the changing nature of conflicts and the development of international humanitarian law, the ICRC adopted, within the framework of its own action and policies, a position designed to take greater account of the wishes of prisoners, in particular by virtue of the principle of *non-refoulement*. It also agreed to offer its services in order to guarantee that prisoners could freely express their wishes.


\textsuperscript{178} These conditions are: “(a) that of being commanded by a person responsible for his subordinates; (b) that of having a fixed distinctive sign recognizable at a distance; (c) that of carrying arms openly; and (d) that of conducting their operations in accordance with the laws and customs of war”.
“the passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court affording all the judicial guarantees which are recognized as indispensable by civilized peoples”.

According to Lehner, some captured combatants fulfilled all the conditions set out in Article 4 of the Third Convention save that of bearing a distinctive sign – and that omission was probably not deliberate but rather due to a lack of means.

However, the South Korean authorities refused to grant prisoner-of-war status to guerrilla fighters, arguing that they had been captured during police operations designed to maintain internal peace and security – a situation that had nothing to do with an international conflict – and that they bore no distinctive sign and did not observe the laws and customs of war.

Lehner also spoke with the authorities about judicial guarantees, especially the rights of defendants, urging them to commute death sentences to prison terms. It seems that these approaches, of which the UNC was unofficially informed, had a positive effect on court-martial proceedings against guerrilla fighters.

Although its Legal Division concluded that neither Article 4 of the Third Convention nor common Article 3 was applicable to guerrilla fighters from a strictly legal point of view, the ICRC approved the steps taken by its head of delegation.

Developments during the second half of 1952 nevertheless put an end to the ICRC’s efforts on behalf of these captives. First of all, South Korean military operations had vastly weakened the guerrilla forces and secondly, the prison camps had been shut down. According to information received by Lehner in late 1952, over half of the roughly 10,000 captives who had been held in the camps were considered civilians and released after interrogation. Guerrilla fighters who had been seized bearing arms were tried and transferred to civilian prisons to serve out their terms. Among these, over 300 were sentenced to death and about 60 were executed.

Civilians

The front lines moved up and down the Korean peninsula – from north to south and back again – three times during the conflict, sparing only the Pusan area. The impact of the fighting was devastating, especially for civilians, who were subjected to

179 Note No. 177 of 25 March 1952 from O. Lehner to the ICRC – ICRC Archives, B AG 200 (172).
182 Note of 6 October 1952 ("Guerrillas in Korea") from R.-J. Wilhelm to E. de Weck – ICRC Archives, B AG 225 (172).
heavy bombing (sometimes with the use of napalm)\textsuperscript{184} and had to flee their homes. By mid-1951, the numbers of dead and wounded stood in the hundreds of thousands, and millions of people had become refugees.

According to Jacques de Reynier, civilians were considered “a hindrance, a military obstacle, enemies (...). Constantly suspected of collaboration, forced to prove their allegiance to one side or the other, held for ransom and the victims of looting, civilians quickly understood that there was no way out for them. When civilians happened to be in the good graces of the military forces controlling an area, guerrilla fighters would steal in by night demanding their support, information or goods.” He later wrote: “Massacres are perpetrated daily on and behind the front lines, by both sides, claiming hundreds of victims.”\textsuperscript{185}

**Protection for civilians**

As early as 7 July 1950, while informing the North Koreans that South Korea had agreed to the presence of a delegate on its territory, the ICRC raised the possibility of establishing safety zones to protect certain categories of civilians (women, children, the elderly) from the effects of war,\textsuperscript{186} an issue that it was to raise time and again.

In mid-December 1950, de Reynier delivered an alarming report to ICRC headquarters on the fate of hundreds of thousands of refugees who were fleeing the southerly advance of North Korean and Chinese troops, on both sides of the 38th parallel. He proposed that Geneva urge the belligerents to agree on the establishment, close to and on either side of the 38th parallel, of neutralized zones where refugees could take shelter and be provided with relief.\textsuperscript{187}

The ICRC discussed de Reynier’s proposal two weeks later but deemed that its chances of success were slim and doubted that the time was ripe. Considering that

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\textsuperscript{184} Report by President Ruegger on his trip to China made at a meeting of the Presidential Council held on 5 April 1951 – ICRC Archives, B AG 251 PR (34). Final Report No. 12 dated 2 October 1951 by J. de Reynier – ICRC Archives, B AG 200 (172).

\textsuperscript{185} Report on the activities of the ICRC during the first year of the Korean War, June 1950–June 1951, by J. de Reynier and Dr C. Bessero – ICRC Archives, B AG 200 (172).

\textsuperscript{186} ICRC Archives, B G 17/172. *Rec. doc I*, No. 61, p. 46. In accordance with Art. 14 of the Fourth Geneva Convention of 1949 and the draft agreement contained in Annex I thereto, the parties to a conflict may agree to establish, outside of combat areas, safety zones “to protect from the effects of war, wounded, sick and aged persons, children under fifteen, expectant mothers and mothers of children under seven”. During his assignment in Israel, J. de Reynier had been active in setting up safety zones during the 1948 Palestine War and thereby helped lay the groundwork for the provisions that were later set out in the Fourth Convention. See pp. 415 ff. and 441 ff. above.

\textsuperscript{187} Neutralized zones, provided for in Art. 15 of the Fourth Geneva Convention of 1949, are intended to shelter from the effects of war, with the agreement of the parties to the conflict, “(a) wounded and sick combatants or non-combatants; (b) civilian persons who take no part in hostilities, and who, while they reside in the zones, perform no work of a military character”. Contrary to safety zones, they may be established in areas where fighting is taking place.
the ICRC had attempted nothing when the military advantage was to the other side – although it must be said that it had no delegate in North Korea who could report on the situation at the time – it feared that efforts to set up neutralized zones near the 38th parallel while North Korean and Chinese forces were headed in that direction could be perceived by North Korea as favouring a military victory by UNC forces. It might be better, or so the ICRC thought, to propose the establishment of safety zones in North Korea, where civilians could be protected from the bombing. The organization also discussed the problem of checking the identity of persons authorized to enter neutralized zones, were they to be set up. Since President Ruegger was considering a trip to North Korea, the ICRC decided to postpone any action on de Reynier’s proposal.\(^\text{188}\) In his message of 5 January to the North Korean minister of foreign affairs informing him of his desire to visit Pyongyang, President Ruegger nevertheless mentioned safety zones among the topics he wished to discuss.

The ICRC president also raised the subject of safety zones during his trip to Beijing, both with Premier Zhou Enlai and with the Chinese Red Cross, to whom he explained, in person and in writing, the advantages of such zones.\(^\text{189}\) He reiterated these points to the president of the Chinese National Society, Li Tehchuan, during her visit to Geneva in December 1951 and handed her a memorandum on the subject.\(^\text{190}\) He also referred to safety zones in February 1952 in his reply to a letter from her asking him to protest various actions taken by the US armed forces.\(^\text{191}\) However, these efforts were to no avail.

**Civilian detainees in South Korea**

In late July 1950, the ICRC heard from several different sources about the dismal fate of civilians arrested and detained in South Korea.\(^\text{192}\)

A few months later, on a street in Seoul, ICRC delegates witnessed “pitiful processions of men and women (many carrying children on their backs), attached by the wrists to one another, four by four, and to a large central rope. Armed guards used the butts of their rifles to hit these poor people without the slightest provocation. Gaunt and emaciated, their clothing in tatters, they could hardly put one foot in front of the other.”\(^\text{193}\) The delegates appealed to the vice-minister of foreign affairs, who informed them that, “contrary to rumour”, all those arrested were “criminals, suspects, traitors

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\(^{188}\) Minutes of the meeting of the Presidential Council held on 28 December 1950 – ICRC Archives, A PV.

\(^{189}\) Mission to China by President Ruegger, Annex I – ICRC Archives, B AG 251 PR (34).


\(^{191}\) Letter of 12 December 1951 from the Chinese Red Cross and reply from the ICRC of 7 February 1952 – ICRC Archives, B AG 202 (172).

\(^{192}\) According to unofficial sources, large numbers of civilians accused of crimes were also interned in North Korea.

and collaborators” and that no civilians had been detained for reasons of ideology or political opinion.\textsuperscript{194}

Alarmed by the reports it was receiving, the ICRC asked its delegates to approach President Syngman Rhee in person. The organization considered itself entitled to take this step pursuant to its treaty-based right of initiative, especially as Rhee had formally approved the provisions set out in common Article 3.\textsuperscript{195}

Meanwhile, de Reynier had received permission from the South Korean minister of justice to visit, on 12 December 1950, two prisons in Seoul, where over 9,000 civilians were being held in appalling conditions. De Reynier counted some 50 dead bodies left to fester inside the cells, including those of women and babies.\textsuperscript{196}

ICRC delegates appealed directly to President Rhee, urging him to remedy the situation. In a letter addressed to the South Korean leader, Bieri recommended that the authorities free all persons detained solely for political reasons and that they take measures to improve the material conditions of detention, allow contacts between the detainees and their families and friends and ensure basic judicial guarantees.\textsuperscript{197}

President Rhee – who in the meantime had been to see the prisons himself – responded to the delegate’s recommendations, which were reiterated in a telegram sent from Geneva two weeks later,\textsuperscript{198} by announcing a partial Christmas amnesty and promising to improve the conditions of detention, in particular by having some detainees transferred to other prisons.\textsuperscript{199}

After receiving official permission to enter all places of detention under the authority of the Ministry of Justice, ICRC delegates carried out over 20 visits between December 1950 and the end of May 1952.

As many prisons had been destroyed during the fighting, those that remained were generally overpopulated and lacking in everything. Following their visits, the delegates made recommendations – concerning both the material conditions of detention and amnesty measures – to the relevant authorities, but they ran into various obstacles and contradictions within the system. First of all, they sought to assist civilians detained for political or security reasons at a time when the South Korean government claimed to be holding only ordinary criminals (in fact, the two groups were mixed

\textsuperscript{194} Letter of 6 November 1950 from the South Korean Ministry of Foreign Affairs to the ICRC delegation for South Korea – ICRC Archives, B G 44/172. Rec. doc. I, No. 222, p. 164.

\textsuperscript{195} Note No. 73 of 10 November 1950 from the vice-president of the ICRC, J. Chenevière, to F. Bieri. Note of 23 November 1950 from C. Pilloud to E. de Weck. Note No. 85 of 6 December 1950 from E. de Weck to F. Bieri – ICRC Archives, B G 44/172.

\textsuperscript{196} Note No. 26 of 14 December 1950 from J. de Reynier to the ICRC – ICRC Archives, B G 44/172.

\textsuperscript{197} Note No. 27 of 14 December 1950 from J. de Reynier to the ICRC; Note No. 774 of 17 December 1950 and its annex; and Note No. 776 of 22 December 1950 from F. Bieri to the ICRC – ICRC Archives, B G 44/172. Minutes of the working session of the Committee held on 21 December 1950 – ICRC Archives, A PV. Rec. doc. I, No. 223, pp. 165–168.

\textsuperscript{198} Telegram of 4 January 1951 from the ICRC to President Syngman Rhee – ICRC Archives, B AG 225 (172).

together). Secondly, the delegates were carrying out their visits under the authorization of the South Korean government while being entirely dependent for logistics (means of transport, accommodation, etc.) on the UNC, which officially recognized only their right to assist prisoners of war. Thirdly, the delegates had appealed to South Korean authorities to improve the material conditions of detention, whereas the flow of prison supplies was controlled by the UNC, especially by the United Nations Civil Assistance Command for Korea (UNCACK) – the headquarters office in Tokyo in charge of providing relief for civilians, including civilian detainees. Lastly, the delegates could not distribute relief directly to prisons since all aid to civilians was required to go through UNCACK (see below).

Several months after being appointed head of delegation, Otto Lehner wrote the following: “The problem of political detainees seems virtually insoluble. What is the point of visiting the detainees, if we cannot assist them, only to note that they are dying? As you know, we are not allowed to provide any relief at all.”

Indeed, the ICRC, which had repeatedly urged its delegates to do everything in their power to assist civilian detainees, concluded that there was no point to the visits unless they could distribute relief or have it distributed. The ICRC therefore asked Lehner to raise the issue of medical care and the lack of medicines, in writing, with the South Korean authorities, in the hope that this might induce them to request its services. The ICRC could then use that as grounds for urging the UNC to change its policy.

At the end of June 1952, Lehner sent a memorandum to the South Korean government, drawing its attention to the main problems that ICRC delegates had observed during the series of visits they had just completed in 15 civilian prisons housing some 15,000 detainees (only 20 per cent of whom were ordinary criminals). He offered to supply medicines and nutrient-rich food rations for the detainees provided that an official request be made. UNCACK was informed of this memorandum and of the reply given by the South Korean government, which accepted the ICRC’s offer.

Unfortunately, many months went by before the UNC adopted a more flexible attitude towards ICRC relief operations, finally allowing the organization to provide medical aid in civilian prisons. During this period, ICRC delegates stopped visiting the prisons as it seemed pointless to come empty-handed.

By the end of 1953, the ICRC had provided 65,000 Swiss francs worth of medical supplies to UNCACK for distribution in the prisons. During two visits conducted in September 1953, ICRC delegates confirmed that these supplies had reached the
prisons and were being used to treat detainees, although closer monitoring proved impossible. Some of the recommendations made by Lehner in his memorandum of June 1952 had also been implemented: separate prison facilities had been set up for juvenile delinquents, tubercular patients had been grouped together and were receiving appropriate treatment, sick detainees in general were receiving better care and their diet had improved, and lastly, prison quarters had been upgraded.\(^\text{204}\)

ICRC action for civilian detainees nevertheless remained very limited in comparison with the scale of the needs.

**Relief operations**

As soon as Bieri had approached President Syngman Rhee, the ICRC began to receive urgent requests for relief, especially for refugees and for military and civilian hospitals.

At the same time, various National Red Cross Societies (the Australian, British and Indian Red Cross Societies, and the Iranian Red Lion and Sun) asked the ICRC for information about the needs of civilians in Korea. The ICRC passed on the details provided by its delegate, who was in touch with the South Korean Red Cross, and promised to send news of civilians in North Korea as soon as possible.

In keeping with its longstanding principles, the ICRC intended to play its role as a neutral and impartial intermediary throughout the Korean peninsula. This meant letting donors know the extent of the needs and facilitating the delivery and distribution of relief under the supervision of its delegates. At first, when it still held out the hope of being granted rapid access to North Korea, it even considered waiting until it had representatives posted on both sides of the front lines before launching a relief operation in South Korea.\(^\text{205}\)

**North Korea**

On 19 July 1950, the ICRC wrote to the North Korean minister of foreign affairs to inform him of its intentions and to request a list of the main needs of civilians – especially the wounded and the sick.\(^\text{206}\) It cabled the same message to the Korean Red Cross in Pyongyang on 2 August.

Not only did the ICRC receive no reply from North Korea to its many offers of assistance, it was never able, despite numerous attempts, to provide relief for the population. The consignment of medicines brought over by President Ruegger on his trip to China had to be left in Hong Kong, and all efforts to persuade the Chinese Red Cross

\(^{204}\) Note No. 587-53 of 16 October 1953 from O. Lehner to the ICRC – ICRC Archives, B AG 280/225 (172).

\(^{205}\) Minutes of the meetings of the Presidential Council held on 27 July and 10 August 1950 – ICRC Archives, A PV.

\(^{206}\) ICRC Archives, B G SG 7 (172). *Rec. doc. I*, No. 255, p. 188.
to distribute the medicines in North Korea failed. Approaches made to the National Societies of Bulgaria, Czechoslovakia, Hungary, Poland and Romania – all of which had denounced the suffering endured by civilians under bombardment in North Korea and sent relief to Pyongyang – were likewise to no avail. For some time the ICRC hoped that it could send one tonne of medical supplies to North Korea through the Hungarian Red Cross, which had agreed to help out. In June 1951, however, the Hungarian National Society told the ICRC that it had not been able to deliver the medicines and that they were stored back in Budapest.\(^{207}\) The Hungarian Red Cross finally returned the consignment to Geneva.\(^ {208}\)

**South Korea**

Despite its presence in South Korea, the ICRC was unable to conduct relief operations there either. It very quickly came up against the lengthy procedures put in place by the UN, which claimed the sole right to provide relief for civilians in Korea.

In July 1950, during talks with the UN secretary-general and another senior official of the world body, President Ruegger underscored the importance of allowing the ICRC to fulfil its role as a neutral intermediary, including the provision of relief.\(^ {209}\)

On 31 July 1950, however, the Security Council adopted a resolution that “request[ed] the Unified Command to exercise responsibility for determining the requirements for the relief and support of the civilian population of Korea and for establishing in the field the procedures for providing such relief and support”. That was followed, on 11 August, by a resolution of the United Nations Economic and Social Council (ECOSOC), which “authorize[d] the Secretary-General to invite appropriate non-governmental organizations to give such help as [was] within their power for the relief of the civilian population in Korea, and request[ed] him to make suitable administrative arrangements in this connexion”. On 10 October, ECOSOC informed the ICRC of the procedure put in place by the UN for the coordination of assistance in Korea. This procedure, which was extremely rigid, limited the number of channels through which requests for and offers of assistance could be directed and stipulated that all relief distributions were to be carried out by a UN “pool”.\(^ {210}\)

This was rapidly confirmed by ICRC delegates in South Korea: all relief, whatever its source, had to be declared to the UN by its country of origin, be officially accepted and then be sent to the “pool” in Tokyo. Relief parcels were subsequently divested of their original markings, stamped with the UN logo and handed over to UNCACK, which delivered them to South Korean authorities for distribution in accordance


\(^{208}\) Letter of 13 June 1951 from the Hungarian Red Cross to the ICRC – ICRC Archives, B AG 280 (172).

\(^{209}\) Minutes of the meeting of the Commission for External Activities held on 19 July 1950 and minutes of the working session of the Committee held on 21 July 1950 – ICRC Archives, A PV.

\(^{210}\) *Relief for Korea*, March 1951 – ICRC Archives, B AG 280 (172).
with its instructions. On the surface, this procedure was meant to facilitate transport and storage, improve security, avoid any duplication of efforts and forestall injustices. According to the delegates, however, UNCACK had two underlying aims: first of all, to protect the army from accidents or hindrances caused by civilians, such as epidemics, migration, panic, etc.; and secondly, to use relief supplies stored in Tokyo (i.e. by the UN “pool”) by prevailing upon the Korean authorities to distribute them.\(^{211}\)

In late September 1950, as the consignments were being prepared, the ICRC asked its delegates on the spot to negotiate permission to carry out an independent relief operation. It reminded the delegates that the UN had known of the ICRC’s position before the Security Council adopted its resolution of 31 July.

The ICRC’s position does not in any way preclude practical coordination between Lake Success and Geneva, either at headquarters or in the field, (...) aimed at avoiding the duplication of efforts or the overlapping of relief distributions. It should be stressed that Red Cross relief is intended, first and foremost, for prisoners of war and civilian internees, for the wounded and the sick, and for certain categories of civilians who are the direct victims of war. Moreover, any ICRC action would serve to demonstrate to North Korea the organization’s usefulness. The provision of relief by the ICRC excludes, by definition, any patronage or supervision by the United Nations. Action by the ICRC in time of war is necessarily independent and neutral since the organization must, in accordance with its longstanding practice, be able to approach and come to the aid of both parties, at least virtually (...). Should the ICRC launch a relief operation in South Korea, it would renew its initial offer of services to North Korea.

For the time being, the ICRC is not considering a general appeal to all National Red Cross Societies but has confined itself to accepting the offers it receives.\(^{212}\)

On 6 November 1950, however, without first notifying the ICRC, the League of Red Cross Societies, which had hastened a delegate to South Korea, launched an appeal to National Societies asking them to send relief and personnel to assist the civilian population in Korea – a glaring example of the unclear distribution of responsibilities that prevailed at the time between the two organizations. According to the League, its appeal followed discussions held with the UN in Lake Success and the UNC in Tokyo. Under the terms of the agreement, the League was to act as the coordinating body for Red Cross relief distributions to civilians in Korea. As for Red Cross teams, they were to take their instructions from the UNC for the duration of the hostilities.\(^{213}\)


\(^{212}\) Note of 21 September 1950 from R. Gallopin to F. Bieri and J. de Reynier – ICRC Archives, B G 17 (172).

\(^{213}\) League of Red Cross Societies, press release No. 1950-29, 6 November 1950 – ICRC Archives, B G 17 (172).
Following this appeal – and after negotiations undertaken by its delegates had stalled – the ICRC decided to submit an official request to the UN, pursuant to the 1949 Conventions, for permission to conduct a relief operation in accordance with its fundamental principles of independence, impartiality and neutrality. This would enable it to respond to the requests of National Societies and other donors that had used its services before and would likely use them again in the future. The ICRC addressed its request to Trygve Lie in a telegram dated 25 November 1950. It reiterated the request in a memorandum handed to the secretary-general by the ICRC president during a meeting held on 14 January 1951, and in a second memorandum conveyed to the UN Secretariat and the State Department in Washington during a visit made by Roger Gallopin and Max Wolf to the US in February 1951.

The UN and the UNC stood their ground.

Despite its different approach, the League also failed in its attempts to distribute relief – its consignments were merely added to the UN “pool” and distributed by UNACK.

The matter was finally taken up during the 18th International Conference of the Red Cross held in Toronto from July to August 1952, which adopted a resolution requesting the secretary-general of the United Nations to confer with the League and the ICRC “in order to determine the measures whereby the flow of Red Cross supplies to Korea [might] be facilitated”.

Discussions were subsequently held in New York and Washington between representatives of the ICRC, the League, the UN and the US government. A more acceptable modus vivendi was thus established, whereby partial relief programmes could be proposed and distributions carried out under the supervision of the donor organization.

In 1953, on the basis of these discussions, the ICRC launched a modest relief operation for civilian war victims, using a donation made by Switzerland and some of its own funds. The relief consisted of 150,000 Swiss francs worth of medical supplies – 85,000 of which were intended for the civilian population as a whole (to be distributed by the South Korean Red Cross) and 65,000 for civilian detainees. It also

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215 Minutes of the working session of the Committee held on 9 November 1950 – ICRC Archives, A PV. Note No. 15 of 10 November 1950 from J. Chenevière to J. de Reynier concerning relief – ICRC Archives, B G 17/172 and B G SG 7 (172).
218 Minutes of the meeting of the Commission for External Activities held on 17 October 1951 – ICRC Archives, A PV. Note No. 90 of 2 October 1951 by J. de Reynier – ICRC Archives, B AG 200 (172).
220 Note No. 365 of 11 November 1952 from O. Lehner – ICRC Archives, B AG 280 (172). Minutes of the meeting of the Presidential Council held on 30 November 1952 – ICRC Archives, A PV.
gave the South Korean Red Cross 300 Braille watches for distribution to blind war invalids and several donations made by other National Societies.

Although the ICRC did not have the means to mount as large a relief operation as that of the UN, the position of the world body virtually deprived the ICRC of any possibility of coming to the aid of civilians, who were very hard hit by the war. At the time, the ICRC – which chose not to compromise its principles by becoming an agent of the UN – concluded that this state of affairs had set an extremely dangerous precedent.  

Conclusion

During the Korean War, the ICRC was unable to play its time-honoured role as a neutral intermediary between the parties to the conflict. The organization’s action was basically confined to providing unilateral relief in South Korea, mainly for North Korean and Chinese prisoners of war.

As it turned out – and despite serious incidents linked to the politicization of decisions on the repatriation of prisoners of war and to the protracted armistice negotiations – the ICRC’s action generally had a positive impact on the material conditions of detention since the UNC agreed to follow up on most of the recommendations made by its delegates. The psychological conditions prevailing in the camps and the incidents described above nevertheless placed the delegates in a particularly difficult situation for which they were initially ill prepared. This led to some confusion over the type of investigations to be carried out and the sort of reports to be drawn up. Further confusion arose – understandably, given the unilateral nature of the ICRC’s action and the widespread use of propaganda – regarding the submission of its reports on visits to places of detention. After first providing copies of the reports to both parties, in accordance with its usual procedures, the ICRC stopped delivering them altogether. In the aftermath of the conflict, the organization strove to draw lessons from the Korean War and to strengthen its policies with regard to this issue and others, such as the interpretation of Article 118, repatriation procedures and attempts to indoctrinate prisoners.

The presence of ICRC delegates in the camps during violent incidents and, in other cases, their arrival soon afterwards enabled the organization nevertheless to alleviate some of the suffering and occasionally to forestall new incidents.

On the communist side, the ICRC faced a wall of silence that prevented it from discharging its mandate altogether.

Yet when the conflict broke out – at the height of the Cold War, when the worst was to be feared – the ICRC was particularly anxious to act on both sides of the

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222 Réflexions et commentaires sur le conflit de Corée, op. cit.
front lines. This explains the numerous approaches it made, not only to North Korea but also to the USSR and to China. From the outbreak of the hostilities to the end of January 1952 (when Otto Lehner travelled to Panmunjom), the ICRC attempted no less than 108 times to reach the North Korean authorities by mail, telegram and radio. During the same period, it sent 16 missives to the Chinese government, 26 to the Chinese Red Cross, 11 to the Soviet government, eight to the Soviet Alliance of Red Cross and Red Crescent Societies and four to the Soviet Legation in Bern, not counting the information forwarded by the Agency. In addition, Jean Courvoisier and the ICRC president himself travelled to China, a message was sent to Yakov Malik on 29 August 1950, and discussions were held with the Soviet Alliance of Red Cross and Red Crescent Societies in Moscow during a visit by the ICRC president (November 1950) and in Geneva (December 1951).

The idea of asking the most powerful States bordering on the conflict zone to throw their support behind the ICRC’s approaches – an innovative step at the time – was approved by Resolution 16 of the 18th International Conference of the Red Cross held in Toronto.

The ICRC clearly spared no effort to gain access to North Korea. How then could it have failed so utterly?

First of all, ICRC approaches to the USSR and to China collided head-on with the public stance taken by both countries internationally, namely that the Korean question was a matter of internal policy and therefore, in accordance with the principle of State sovereignty, one in which they could not intervene. By repeatedly asking them to bring their influence to bear on the North Korean government, the ICRC – notwithstanding its strictly humanitarian motives – was implicitly adopting an attitude similar to that of the UN and the US, which held the USSR and China responsible for the outbreak of the conflict and for its protracted nature.

In more general terms, one might ask whether the ICRC tried hard enough to distance itself from the UN – which was after all a party to the conflict – and the US to be perceived as neutral by North Korea and its allies.

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223 Summary appended to the minutes of the working session of the Committee held on 28 February 1952 – ICRC Archives, A PV.

224 The resolution read as follows:

“The XVIIIth International Red Cross Conference,
– considering that under Article I, which is common to the four Geneva Conventions of 1949, the powers undertake to respect and to ensure respect for the said Conventions in all circumstances,
(…) 
– recommends to the Governments of all countries not involved in a conflict and to the National Societies of such countries that they facilitate in every way the material application of these Conventions,
– considers in particular that it is the duty of States bordering any territory where a conflict is taking place, and of the National Societies of such countries, to facilitate the passage through such States of persons whose mission it is to aid in the application of the Conventions and in the conveyance of relief to the victims of such conflict.”
From the outset of the conflict, the ICRC kept the UN secretary-general abreast of its representations to various parties. Trygve Lie, concerned about the fate of the prisoners of war in North Korean hands, took the initiative of supporting the ICRC’s offers of services by sending telegrams to the North Korean minister of foreign affairs on 11 July and 16 August 1950.

Fairly quickly – as we have seen, North Korea did not respond directly to the ICRC’s appeal of 26 June 1950 but replied instead to the secretary-general’s telegram of 11 July – the ICRC became aware of the importance of demonstrating its independence from the UN in order to avoid any blurring of roles that stood to undermine its action. It conveyed this concern to the secretary-general’s office, and Trygve Lie subsequently refrained from expressing any support for the ICRC so that negotiations with North Korea could proceed on an independent footing. However, the ICRC accepted indirect support from the UN as long as it did not appear to have been requested.

Within the ICRC, opinion was divided as to the type of relations that should be maintained with the UN. Some members of the Committee feared that by keeping the UN informed of its every move, the ICRC ran the risk of appearing to be a US agent. Others, on the contrary, believed that the ICRC could thus forestall any unfortunate initiatives.

As the conflict raged on, it seemed that China and North Korea – whether by design or by circumstance – increasingly lumped the ICRC together with the UNC and the UN. This was clear in the reply of 20 January 1952 from the commanders of the North Korean and Chinese forces to President Ruegger, which merely reiterated the terms of their letter of 24 December 1951 to the UNC commander. The fact that Lehner had to resort to UNC assistance in travelling to Panmunjom provided further grist to the mill by giving the impression – albeit mistakenly – that the ICRC was linked to the UNC. In fact, the ICRC was simply determined to leave no stone unturned in its attempts to establish contact with the North Korean authorities.

The ICRC’s refusal to condemn the bombing of civilians by US forces – despite entreaties by the USSR and China, among others – certainly helped to tarnish its image in communist eyes. As already mentioned, the ICRC adopted its time-honoured position regarding alleged violations of the law of nations and proposed establishing safety zones. In all fairness, it would have been difficult for the ICRC – without renouncing its impartiality and embarking on an extremely dangerous course – to condemn violations committed by one party while the other party was itself committing violations by refusing to allow the organization onto its territory and by failing to implement various treaty-based provisions for the protection of prisoners of war.

225 ICRC Archives, B G 17/172.
226 Minutes of the meetings of the Commission for External Activities held on 12 and 26 July 1950 and minutes of the meetings of the Presidential Council held on 27 July 1950 and 16 January 1951 – ICRC Archives, A PV.
227 Minutes of the meeting of the Commission for External Activities held on 2 August 1950 and minutes of the working session of the Committee held on 19 February 1951 – ICRC Archives, A PV.
One might nevertheless ask why the ICRC did not draw attention to the essential principle whereby civilians must be spared from the effects of war – all the more so as its delegates had reported to headquarters the devastation wrought by indiscriminate bombing. One might also wonder whether the fact that the ICRC was unable to come to the aid of UNC prisoners of war held by North Korea and China made it overly reluctant to confront the US.  

Conversely, one might ask whether the lack of reciprocity and its overriding desire to gain access to North Korea drove the ICRC to act too hastily in the matter of bacteriological warfare. Some members of the Committee wondered at the time whether the widespread publicity given at the outset to the proposal made by the US to set up a commission of inquiry made North Korea and China feel as if they were being put in the dock. They might, as a result, have sought to discredit the organization entrusted with the inquiry, a theory that would tend to be supported by the virulence of the campaign launched against the ICRC by the communist camp. In this regard, Max Huber, then honorary president of the ICRC, wrote: “I am not sure whether the current campaign waged by the Swiss communists, by Yakov Malik and by the Soviet and Bulgarian Red Cross Societies aims to destroy our organization or else to draw attention away from the absurdity of denying the International Committee permission to carry out an inquiry into the use of bacteriological warfare since, in the matter, the Committee has done nothing wrong. (...) But impartiality seems to have been misconstrued and to utter certain words is now a crime.” The ICRC should no doubt have been more cautious and waited for both parties to approach it before suggesting that a commission be established – all the more so as its traditional position would have been to refuse to take part in any inquiry that had not first been approved by both sides and to avoid any action that might hinder the delivery of assistance to war victims.

To sum up, the ICRC should have tried harder to demonstrate its independence from the UN and the US and it should have reminded the parties of the principle – albeit unenforceable – that all civilians must be spared from the effects of bombing. However, its inability to discharge its mandate on both sides of the battle put it in a position of weakness.

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228 It should be pointed out that the Diplomatic Conference of 1949 had refused to broach the question of general protection for civilians from aerial bombardment and that this question, which was covered by the law of The Hague, was not introduced into the law of Geneva until the adoption of the Additional Protocols in 1977. The ICRC submitted to the 19th International Conference of the Red Cross, held in New Delhi in 1957, a series of draft rules restricting the dangers to which civilians could be exposed in wartime. These rules were never accepted by governments (in particular, because they implied prohibiting the use of nuclear weapons), thus demonstrating the obstacles facing the ICRC in this respect. See pp. 268 ff. above.

229 Réflexions et commentaires sur le conflit de Corée, op. cit.

230 In connection with the prosecution of Prof. Bonnard, see footnote 91, p. 501 above.

Whether or not this would have sufficed to overcome the mistrust displayed by North Korea and China remains an open question. It seems doubtful in view of the political climate that prevailed at the time. What North Korea and its Chinese and Soviet allies rejected was the ICRC’s role as a neutral intermediary and the very principles underlying its action. The concept of neutrality seemed incompatible with Marxism-Leninism, under which the relationship between communism and capitalism could only be one of opposition, and those who failed to choose a camp were by definition considered enemies.232

In such circumstances, there was little hope of success for an organization like the ICRC, which belonged to the Western world and whose traditional neutrality gained no purchase in view of the ideological dimension of the conflict. This was also true in other conflicts fomented by the Cold War, such as the Indochina War and later the Vietnam War.233

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233 On the Indochina War, see pp. 335 ff. above.

From the end of the Second World War until 1949, the ICRC based its action in non-international armed conflict on its “right of humanitarian initiative”, as set out in the Statutes of the International Red Cross\(^1\) and as confirmed by various resolutions of the International Conferences of the Red Cross. It also acted on the basis of documents drawn up in preparation for the revised Geneva Conventions, which were to provide for the application of those instruments – or of the principles enshrined therein – to civil war. These were the grounds on which the ICRC worked in Spain (where it viewed its assistance to political detainees as the logical follow-up to its role during the 1936–1939 civil war), in Greece and in China, and during the Jewish-Arab Civil War in Palestine.\(^2\)

The adoption of the four Geneva Conventions of 1949 and their common Article 3 vested in the ICRC full authority to offer its services in such situations. It did its best to do so, as in Burma during the Karen insurgency and in Indonesia during the rebellion in the South Moluccas.\(^3\)

Beginning in 1952, the year in which President Paul Ruegger travelled to Latin America, the ICRC endeavoured to extend its assistance to victims not only of civil war but also of internal disturbances and, especially, to political detainees.\(^4\)

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1. Article VII of the 1928 Statutes, see p. 9 above.
2. See pp. 404 ff. above.
3. See pp. 315 ff. above.
However, the ICRC’s efforts to implement Article 3 of the Geneva Conventions and to extend the scope of its activities to include internal disturbances and political detainees encountered strong resistance on the part of governments and even of National Societies in the countries concerned. This resistance prompted the ICRC to take a closer look at these situations and to adopt policies and criteria that it hoped would facilitate its work. The main steps it took were to establish internal guidelines on civil war and internal disturbances (January 1953); to convene a commission of experts on assistance to political detainees (June 1953); to adopt a memorandum on internal disturbances (end of 1954); and to convene a commission of experts on the application of humanitarian principles to internal disturbances (October 1955). In the end, the ICRC decided that the best way to handle such situations was to adopt an approach based on trial and error and to strive to create precedents. It went on to test this approach in several Latin American countries beset by civil war and coups d’état, in North Africa during the violent disturbances that preceded the independence of Tunisia and Morocco and led to numerous arrests and the capture of many prisoners, and in two Middle-Eastern countries – Egypt and Syria – where it sought to assist political detainees.

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5 See pp. 279 ff. above.
In the aftermath of the Second World War, Greece and Spain were the only two European countries in which the ICRC worked for reasons not directly linked to the conflict. Although the organization’s activities in these countries differed in both scope and timing – Greece was in the midst of a crisis while Spain’s civil war had ended years before – they bore many similarities.

Greek Civil War

Historical background

The seeds of the civil war that devastated Greece from 1946 to 1949 were sown during the Second World War, with the emergence of resistance to the country’s occupation by Axis forces and the ensuing internecine struggle between rival liberation movements.

The first and largest movement to coalesce was the National Liberation Front (EAM), whose military wing was the Greek People’s Liberation Army (ELAS). EAM-ELAS was the result of an alliance between the Communist Party, under whose control it operated, and a number of smaller left-wing parties. Its main rival was the National and Social Liberation Movement (EKKA), with its military wing, the Greek Democratic National Army (EDES). EKKA-EDES, which was founded by a small number of initially republican-leaning officers, was backed by the British armed forces and the Greek government-in-exile, both fearing the rapid expansion of the left-wing EAM-ELAS. Clashes, sometimes violent, broke out between EAM-ELAS and its rivals – whose staunch anti-communist and right-wing views placed them firmly in the royalist camp – while the country was still under occupation.

Between September and October 1944, as Soviet troops swept across the Balkans, the Germans withdrew from Greece. At that point, left-wing EAM-ELAS controlled most of the liberated zones. In order to avert a communist takeover, the British therefore hastened troops to Athens. Members of the Greek government-in-exile arrived shortly thereafter, on 18 October. However, given the prevailing anti-royalist sentiment in the country, the British persuaded the king to postpone his return until a popular vote could be held on the future of the monarchy.

Meanwhile, the British and the government in Athens strove to recover the areas controlled by EAM-ELAS. This required demobilizing ELAS and setting up a Greek
national army. At first, ELAS refused to disband. On 3 December 1944, it held a demonstration in Athens during which police fired on unarmed citizens, killing 28 people and injuring over 100.\(^1\) This triggered a series of violent clashes between EAM-ELAS partisans, on the one hand, and police and government troops,\(^2\) along with British forces, on the other. The capital became a battleground and remained so for an entire month. By the time the confrontation ended in early January 1945, some 7,000 people had lost their lives, 12,000 leftist opponents had been arrested and 15,000 people had been taken hostage by ELAS.\(^3\)

Under pressure from Stalin, who was intent on fulfilling his pact with Churchill regarding their spheres of influence, EAM-ELAS finally signed the Treaty of Varkiza with the government in Athens on 12 February 1945. Under the treaty, which was backed by British guarantees, ELAS agreed to hand over virtually all its weapons to the United Kingdom, which had 40,000 troops stationed in Greece. The treaty also provided for the democratization of the army, legislative elections to form a new government and a plebiscite to settle the question of the political regime to be put in place. In a brutal about-face, however, the extreme right imposed a regime of terror

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\(^2\) Government forces had not only been “purged” of any troops deemed unreliable but had been joined by former members of the “security battalions” set up during the war by the German-controlled Greek authorities. These battalions, which included royalist officers, had spent months helping the occupying forces, before their withdrawal, fight ELAS and the communists.

\(^3\) Polymeris Voglis, Becoming a Subject: Political Prisoners During the Greek Civil War, Berghahn Books, New York/Oxford, 2002, p. 53.
under which thousands of leftists were hunted down and imprisoned, mainly for acts committed during the events of December 1944.

Given the situation, the Communist Party and various minority republican parties boycotted the legislative elections held in late March 1946, handing the victory to the royalist People’s Party. Following a plebiscite organized by the new government, headed by Konstantinos Tsaldaris, the king returned to Greece on 27 September 1946. The Tsaldaris government continued to pursue a policy of repression towards leftists without managing to restore calm to the country, which began its inexorable slide towards civil war.

At the instigation of the Communist Party, former EAM-ELAS partisans regrouped in the mountains and engaged in guerrilla action against the royalist government in Athens. On 28 October 1946, under the leadership of General Markos Vafiadis, they formed the Democratic Army of Greece.

With the support of Greece’s three communist neighbours – Albania, Bulgaria and Yugoslavia (the latter until July 1948) – and of the Soviet bloc, the Democratic Army initially overpowered government troops. Its partisans implanted themselves in the Pindus and Olympus mountains and along the country’s northern border, but they were unable to capture any major cities. On 24 December 1947, they set up the Provisional Democratic Government of Greece.

Following the announcement by President Truman on 12 March 1947 of his containment doctrine and the subsequent approval by Congress of 250 million dollars in aid to Greece, the United States took over the role played by the United Kingdom. It supplied the government in Athens with military and economic advisers and with the weapons and cash needed to save it from rapid collapse. Virtually bankrupt at the end of the Second World War, Greece was once again in the throes of a conflict that displaced hundreds of thousands of people.

In July 1947, the government in Athens arrested thousands of people and sent them into internal exile on the pretext that they were preparing to mount an insurrection in the cities. At the end of December, following the proclamation of the Provisional Democratic Government by the partisans, it outlawed both EAM and the Communist Party. Less than a year later, in late October 1948, it raised the stakes by declaring martial law and undertaking to methodically “cleanse” the country, beginning in the south and moving north.

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4 See Introduction, p. 4.
5 According to Daniel Yergin, in Shattered Peace: The Origins of the Cold War and the National Security State, Houghton Mifflin, Boston, 1977, p. 293, it was during the Greek Civil War that napalm was used for the first time. In an appeal launched on 23 July 1948 to the entire Red Cross movement, the Bulgarian National Society referred to the use made by the government in Athens of “new bombs” that “set ablaze dozens and dozens of villages, and acres of forested land and fertile fields” – ICRC Archives, B G 44/53c-239.
6 The Second World War claimed some 500,000 lives in Greece, i.e. over seven per cent of the country’s population. Some 1,770 villages were burnt to the ground and some 1,200,000 people were made homeless. See Dictionnaire de la seconde guerre mondiale, op. cit., p. 864, and Polymeris Voglis, op. cit., p. 44.
The number of political prisoners held between 1947 and 1949 ranged from about 40,000 to some 50,000 at any one time.\(^7\)

In December 1946, the Greek government had lodged a complaint with the United Nations Security Council alleging that Albania, Bulgaria and Yugoslavia were providing aid for the insurgents. A commission set up to investigate determined, in October 1948, that the complaint was justified.

This aid was far from disinterested – Tito planned to create a Balkan Federation including not only Yugoslavia and Bulgaria but also, if possible, Greek Macedonia, Epirus and Albania.\(^8\) His plan, and the presence of large numbers of slavophone Greek Macedonians among insurgent ranks, was used by the government in Athens as grounds for accusing the Communist Party of betraying the nation. The evacuation of some 28,000 Greek children\(^9\) to neighbouring countries in February 1948 – by partisans claiming to protect them from bombing and government reprisals – was also used for propaganda purposes by Athens.

Yet to come was the split between Stalin and Tito in June 1948, which sounded the death knell for any idea of a Balkan Federation. It also caused a rift within the Greek Communist Party, the majority of whose members sided with Moscow. On 10 July 1948, Tito publicly announced the closure of Yugoslavia’s border with Greece, thereby ending his support for the partisans. In February 1949, Nikos Zachariadis took over from Markos Vafiadis as general secretary of the Greek Communist Party. In August, government troops overran the remaining positions held by insurgents, who were forced to retreat to Albania and Bulgaria. Zachariadis proclaimed the provisional cessation of hostilities on 16 October 1949, thus putting an end to the civil war.

Brought to its conclusion by the military defeat of the partisans, the war had claimed at least 50,000 lives.\(^10\) Some 11,000 villages had been devastated and about 700,000 people had fled their homes, leaving everything behind. Atrocities had been committed on both sides, and many families had been split apart when their children were evacuated or when their relatives joined thousands of Greek partisans who sought refuge in communist countries.

The government in Athens lifted martial law in February 1950 and restored diplomatic ties with Belgrade on 28 November of the same year. The emergency laws promulgated during the civil war remained in force until 1962, allowing the government to continue holding political prisoners in places of detention or internal exile. Their numbers gradually decreased during the 1950s.

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\(^7\) According to Polymeris Voglis, *op. cit.*, pp. 62–63.


\(^9\) Figure given at the time by the government in Athens. See report on the repatriation of Greek children drawn up by the United Nations Special Committee on the Balkans, Ch. IV, 8 July 1950 – ICRC Archives, B G 44/53c-252.

Prelude to action and challenges faced

During the Second World War, the ICRC carried out a large-scale relief operation for Greek civilians, many of whom were suffering from starvation under the occupation. Acting first on its own initiative, the organization later joined forces with the Swedish government to form the Managing Commission for Greek Relief. Between September 1942 and March 1945, when the relief operation was handed over to the government in Athens, the Commission distributed 712,000 tonnes of food, mainly wheat, which provided basic rations for half the Greek population and helped to keep famine at bay.\textsuperscript{11}

While the events of December 1944 were unfolding, the ICRC delegation – some 20 strong – repeatedly urged the parties to allow the safe passage of trucks carrying food and medical supplies for civilians and hospitals in the capital, where conditions were especially harsh and danger rife, to alleviate at least some of the shortages.

The ICRC obtained a written promise from ELAS to respect the 1929 Geneva Conventions and to allow it to carry out its traditional activities. It also urged the partisans to release thousands of hostages seized in Athens and elsewhere. When they agreed to do so, its delegates went to meet the hostages, provided them with medical care, fed them and evacuated them. With the help of the British army, the United Nations Relief and Rehabilitation Administration (UNRRA)\textsuperscript{12} and the Hellenic Red Cross, the ICRC enabled some 10,000 hostages to return home prior to March 1945. It also facilitated the exchange of 1,200 British prisoners of war and 1,000 ELAS combatants.\textsuperscript{13}

The ICRC’s activities during the country’s occupation, especially in December 1944, had earned the organization the immense gratitude of both the Greek people and their government. A year later, it was still receiving daily requests for aid. According to


\textsuperscript{12} Regarding UNRRA, see footnote 2, p. 149 above.

the head of the Athens delegation, the Greeks held the ICRC in such high esteem that they considered its presence a “safeguard against human rights violations.”

Despite this enviable reputation, the ICRC faced great difficulties in deploying its activities during the civil war owing, first of all, to the Greek government’s complete denial of the conflict and, secondly, to the onset of the Cold War, which exacerbated the prevailing ideological struggle.

While the ICRC’s activities as a whole were intended to provide assistance for all categories of victims, the organization’s approaches to the Greek government focused mainly on gaining access to political detainees. At the time, although the ICRC had carried out sporadic visits to political detainees in half a dozen countries between the two World Wars, it did not yet have an official policy in this regard. It was not until 1952 that it began to give careful consideration to the grounds for such visits – and another 10 years would go by before it undertook to visit political detainees on a regular basis. Bearing this in mind, gaining access to political detainees in Greece constituted a major challenge for the ICRC.

The other key difficulty facing the ICRC was to deploy its traditional activities across the territory controlled by Greek partisans, in conformity with the Red Cross principles of neutrality and impartiality.

Moreover, the United Nations General Assembly had conferred a mandate on the ICRC and the League of Red Cross Societies to jointly facilitate the repatriation of Greek children – a highly politicized issue if ever there was one.

**Approaches to Athens government**

Beginning in July 1946, with the mandate of the Managing Commission coming to an end, the ICRC gradually scaled down its presence in Athens to one delegate, whose task was to oversee the organization’s remaining activities relating to the Second World War and its aftermath and to maintain its ties with the Hellenic Red Cross. The delegate, Adrien Lambert, had previously worked for the ICRC in Ioannina (Epirus).

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14 Report by B. de Glutz attached to the minutes of the meeting of the Bureau held on 10 January 1946 – ICRC Archives, A PV. See also, for instance, the letter of 2 February 1945 from the delegation of the Hellenic Kingdom in Geneva to the ICRC – ICRC Archives, B G 44/53c-236.

15 The generic term “political detainee” refers here to all persons deprived of their liberty in connection with the civil war in Greece and its aftermath, whether exiled civilians, civilians held in preventive detention, detainees awaiting trial or convicted detainees, soldiers forced to undergo re-education, or captured combatants. Regarding these different categories, see p. 550 below.


17 These activities concerned a few German prisoners of war, those Italian civilians who had not yet been repatriated and displaced non-Greek nationals who did not come under the mandate of UNRRA. They included supervising the distribution of aid provided by the Joint Relief Commission of the International Red Cross for the Greek civilian population.
and ran a private business in Athens, where he lived with his Greek wife. He offered to work for the ICRC on a volunteer basis, while continuing to help the Swiss Relief Fund build two villages for needy children. His offer was a boon to the ICRC, which was in serious financial trouble and sought to reduce its paid staff wherever possible.

In mid-September 1946, after receiving appeals from EAM for moral support and material aid, Lambert drew the ICRC’s attention to the plight of political detainees in Greece for the first time.

The ICRC delegate acknowledged that he had known for several weeks that the Greek government was sending its opponents into internal exile. “Communists, (...) democrats, republicans, socialists, etc., and their families,” he wrote, “are being banished to the islands.” This seemed to him “more or less a custom, since royalist families had been sent into exile under Venizelos and the same fate had awaited those who expressed the slightest opposition to the Metaxas dictatorship.” At first, he did not intend to delve into the matter for fear that the ICRC would be accused of intervening in political matters. He later changed his mind on the following grounds: “knowing the violence that political sentiments can unleash, I fear that persons held in detention or sent into internal exile are being made to endure considerable suffering, even if they are not treated with the same cruelty as shown by leftists in December 1944 and in January and February 1945.”

By the time Lambert informed the ICRC of the issue, he had already raised it unofficially with a government representative, who had given him the runaround. Before approaching the president of the Ministerial Council, Konstantinos Tsaldaris, who was a friend of his, he therefore asked the ICRC for instructions.

The ICRC felt that it could not ignore the plight of these people. Furthermore, assistance provided to them could be considered as follow-up to its action during the events of December 1944. Since that action had mainly benefited the royalists, this could be seen as a way to balance the scales. The ICRC therefore approved Lambert’s suggestion that he approach the president of the Ministerial Council for authorization to bring relief to the most needy political detainees and to visit “various places of detention or internal exile.”

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18 A. Lambert wrote an unpublished memoir of his life in Greece during the Second World War entitled J’ai épousé une Grecque! – ICRC Archives, B G 3/27c-X.
19 See footnote 14, p. 153 above.
20 Minutes of the meetings of the Delegations Commission held on 8 January, 17 April and 1 May 1946. Note of 7 July 1946 from the ICRC to A. Lambert and note of 26 July 1946 from A. Lambert to the ICRC – ICRC Archives, B G 3/27c VII.
21 Strictly confidential note of 13 September 1946 from A. Lambert to the ICRC – ICRC Archives, B G 44/53c-236. Venizelos (1864–1936), a Greek statesman and anti-monarchist, headed a republican government from 1928 to 1932. Metaxas (1871–1941) established a dictatorship in Greece on 4 August 1936, following the restoration of the monarchy the previous year.
22 Note of 13 September 1946 from A. Lambert, op. cit.
23 Ibid.
24 Note of 20 September 1946 from the ICRC to A. Lambert – ICRC Archives, B G 3/27c VII.
In October, Lambert informed the ICRC that he had received written authorization from the president of the Council. No visits took place, however, and the situation continued to deteriorate. Guerrilla action escalated along the border and in the north, more combatants were captured, left-wing Greeks continued to be detained or banished to the islands and the number of Greek civilians displaced by the fighting rose to some 15,000. During this time, the ICRC received urgent appeals from the National Solidarity Committee – the official aid and relief agency associated with left-wing organizations in Greece.\(^{25}\)

The ICRC, which felt that Lambert was focusing mainly on the situation of Greek refugees,\(^ {26}\) decided to send a special representative to Greece to discuss the issue of detainees and examine how the organization could serve as a neutral intermediary between the government in Athens and the insurgents. For this task, it appointed Béat de Glutz, former head of delegation in Greece from August 1943 to July 1946.\(^ {27}\)

**Grounds for offers of services**

Pursuant to its Statutes, to the Statutes of the International Red Cross and to various resolutions of the International Conferences of the Red Cross, the ICRC had a mandate to act in time of war, civil war and internal disturbances. It was on this basis that it offered its services in Greece, during the civil war, as it had in Spain in 1936 and then in Indonesia and Indochina.\(^ {28}\) However, in the absence of an actual treaty regulating internal conflicts, States were under no obligation to accept its offers.

As part of its efforts to update the Geneva Conventions and draft new treaties,\(^ {29}\) the ICRC was striving to expand the application of the Conventions to civil war and, if possible, to internal disturbances. It had submitted various proposals to the Preliminary Conference of National Red Cross Societies held in Geneva in July 1946, which had approved them. In the Greek context, the ICRC considered that combatants captured while bearing weapons should be entitled to protection under the 1929 Convention relative to the Treatment of Prisoners of War and that, by analogy, the provisions of the Convention should also cover political detainees. On the other hand, the ICRC viewed the problem of Greek refugees mainly as an internal one. It was also reluctant to come to their aid at a time when its role in providing relief for civilians

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\(^{25}\) Telegram of 7 October from A. Lambert and his notes of 2 and 13 December – ICRC Archives, B G 3/27c VII.

\(^{26}\) We have adopted the terminology used at the time to refer to Greek nationals displaced within the country’s borders owing to the civil war. The term “refugee” should therefore not be understood within the meaning of the 1951 Convention on the Status of Refugees, namely that of a person displaced outside the country of which he or she is a national.

\(^{27}\) Summary of the meeting of the Delegations Commission held on 15 January 1947. Minutes of the meetings of the Bureau held on 16 and 23 January and 13 March 1947. Minutes of the plenary meeting of the Committee held on 29 January 1947 – ICRC Archives, A PV.

\(^{28}\) At the time, no distinction was drawn between a war of national liberation and a civil war.

\(^{29}\) See pp. 209 ff. above.
was contested within the International Red Cross, when the Joint Relief Commission had just been dissolved and when, above all, it was sorely lacking in resources.30

Upon arriving in Athens on 4 February 1947, the ICRC’s special representative held talks with the Hellenic Red Cross and with the minister of public order, the president of the Ministerial Council and Konstantinos Tsaldaris, then vice-president of the Council and minister of foreign affairs. On 21 February, to confirm what had been discussed, he sent them all a memorandum setting out the ICRC’s position and offering its services. He also met with the leaders of National Solidarity in the hope of approaching the head of the partisan armed forces or a representative thereof, but to no avail.31

On 8 March, in reply to the memorandum, Tsaldaris not only turned down the ICRC’s offer of services but also denied that Greece was engulfed in a civil war, stating the following: “A number of people have risen up against the laws of the land, banding together to commit ordinary crimes and engage in subversive activities, with encouragement from across the country’s northern borders.” He hastened to add that, should the ICRC wish to come to the aid of a particular individual for humanitarian reasons, the authorities would raise no objections. On the contrary, they would “be happy to welcome, once again, the ICRC’s support for Greek citizens in distress”.32

Negotiations nevertheless continued in Athens between the ICRC’s special representative and Tsaldaris, who agreed to review the matter and who asked de Glutz to consider his letter as a basis for further discussions rather than as a definitive reply.33

At the same time a prominent Greek citizen, on a private trip to Geneva, informed the ICRC unofficially that the government in Athens had taken a dim view of its memorandum of 21 February.34 Because the ICRC had suggested that persons considered by the government as ordinary criminals should be granted prisoner-of-war status, the organization was perceived as having taken a political stand. The ICRC replied that this was surely a misunderstanding and asked the government to delay any decision until it had been able to further clarify its position. To this end, it sent David de Traz, head of its Prisoners of War, Internees and Civilians Division, to Athens.35

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30 Note of 27 January 1947 from D. de Traz to B. de Glutz, with personal instructions – ICRC Archives, B G 3/27c VIII.
32 Note of 8 March 1947 from C. Tsaldaris to B. de Glutz – ICRC Archives, B G 44/53c-236.
33 Notes of 17 March and 11 April 1947 from B. de Glutz to the ICRC – ICRC Archives, B G 3/27c VIII.
34 Later on, in Athens, Konstantinos Tsaldaris denied to B. de Glutz that he had sent an emissary to Geneva.
**Athens government places restrictions on ICRC**

De Traz managed to persuade the government in Athens to reverse its decision, at least in part – the ICRC was allowed to provide humanitarian aid for the Greek population as a whole, including internal exiles and detainees, in cooperation with the Hellenic Red Cross.\(^36\) At the same time, the government reiterated its position that there was no civil war and that, consequently, there were no active hostilities and no prisoners of war – only ordinary criminals under Greek law. It nevertheless asked the ICRC representative to officially inform the organization that, even though the terms imposed by the government might seem highly restrictive – and they had to be so, for the sake of public opinion – they would prove in practice to be far more flexible. The government was firmly opposed, however, to any potential contact between the ICRC and the insurgents since that would only lend credence to the claim that civil war was in progress.\(^37\)

On 3 May 1947, Tsaldaris sent a second letter to the ICRC delegate in Athens authorizing the organization to work as long as it respected the following conditions:

1. The ICRC shall be allowed to provide material relief (food, medicines, clothing) but not to exercise any form of control over its distribution.

2. The relief shall take the form of group, not individual, consignments sent directly to the Hellenic Red Cross, which shall distribute them according to need in such a way as to benefit the deprived population as a whole (including persons banished under the decree of 19 April 1934) and not just certain groups or categories. An ICRC representative shall be kept informed of the distribution of the consignments.

3. The relief shall be covered by the ICRC’s own financial resources and not by contributions or special gifts made by any other organization, not even a National Red Cross Society. (…)

The relief might possibly be extended and [sic] to prisons should the economic situation in the country result in material deprivation among detainees.\(^38\)

**Categories of political detainees**

The concept of a political detainee – which was not recognized by the government in Athens – covered in practice, under Greek national legislation, four categories of persons deprived of their liberty: political opponents who were detained or sent into

\(^36\) At the time, National Societies were seen as having a role to play – sometimes a major one – in assisting political detainees, provided they were able and willing to do so. See p. 280 above.

\(^37\) Report by D. de Traz on his activities in Greece from 3 April to 7 May 1947, appended to the summary of the meeting of the Delegations Commission held on 14 May 1947 – ICRC Archives, A PV.

internal exile “preventively” on the basis of decisions handed down by public-security commissions answerable to the Ministry of Public Order; detainees convicted by civilian courts of ordinary crimes committed during the events of December 1944 or during the earlier occupation and placed under the authority of the Ministry of Justice; persons convicted of offences against the State by special courts martial under the emergency laws adopted in 1946 and later and who came under the jurisdiction of the Ministry of War; and lastly, members of the armed forces held in re-education centres on the island of Makronisos under the authority of the armed forces and the Ministry of War.39

Officially, communists were not considered as political opponents but as enemies of the State who were conspiring against Greek territorial integrity with the help of neighbouring socialist countries. This was viewed as an act of treason rather than as a political crime, and the struggle was seen as one between “traitors” and “loyalists” rather than between those who held left-wing or right-wing ideas. However, in their places of banishment or detention, persons deprived of their liberty considered themselves, variably, as internal exiles, political detainees, captured combatants or national resistance fighters, whose sole crime was their love of freedom and independence.40

As soon as it had read the letter sent by Tsaldaris, the ICRC instructed its delegate in Athens to swing into action and begin visits to political detainees without delay.41

To that end, the ICRC made some relief immediately available and undertook to provide more. This was no simple task given the conditions imposed by the government in Athens, which prevented the organization from launching any public appeal. It earmarked some 20,000 Swiss francs of its own funds for the operation.42

Meanwhile, the ICRC continued to receive numerous requests for aid, such as one sent by the families of political detainees from Athens and Piraeus, describing the situation since 9 July 1947 in the following terms:

Over 10,000 residents of Athens and Piraeus and 15,000 residents of other Greek cities, including men, women, children, the elderly and the sick (…), have been abducted by the State security apparatus on the pretext that a subversive coup is under way. Prevented from taking essential items with them, such as food and clothing, they were transported to Ikaria and other islands, where they were abandoned without any assistance from the State. (…) After about 10 days, thanks to our insistence and to the pressure of public opinion, the government sent a small amount of food and allowed us to send a

40 Ibid., pp. 66–67.
41 Notes of 16 May and 8 July 1947 from the ICRC to A. Lambert – ICRC Archives, B G 44/53c-236 and B G 3/27c VIII.
42 Notes of 28 November and 16 December 1947 from the ICRC to A. Lambert. Note of 7 November 1947 by P. Colombo on relief to Greek exiles – ICRC Archives, B G 3/27c VIII and B G 44/53c-237. Minutes of the plenary meeting of the Committee held on 26 June 1947 and minutes of the meetings of the Bureau held on 31 July and 14 August 1947 – ICRC Archives, A PV.
few parcels. (...) Following further appeals from us, the Hellenic Red Cross agreed to forward the parcels. The National Society is now sending them food, but not enough since individual rations amount to no more than 1,000 calories per day. (...) This is why we are appealing to you – who came to our rescue during the tragic occupation – to assist us once again by sending medicines, food, clothing, blankets, etc. We also urge you to send a representative to the islands before the onset of winter, when strong winds will prevent any travel there, in order to bear witness to the tragic situation of those who have been banished.

Despite such desperate appeals, no visits took place for over a year – not until June 1948 – with the exception of two conducted by Lambert to a military prison in Ioannina, the first in November 1947 and the second in March 1948. During the same period, only a few small consignments of relief were sent to the islands, all through the Hellenic Red Cross.

*Delay*

What were the reasons for this delay?

Pressed by the ICRC, Lambert initially justified the delay by citing the state of tension pervading the country, the need to assist civilians who had fled the fighting in their villages and the importance of first agreeing with the Hellenic Red Cross on proper procedures for the distribution of aid to political detainees. Precious time had also been lost when Lambert returned to Switzerland for several weeks.

Considering that Lambert was working for the ICRC on a voluntary basis and that he had other commitments, the organization decided in July 1947 to send a second delegate to Greece in an attempt to remedy the situation. To this end, it appointed Emile Wenger, who had served as a delegate in Salonika from June 1943 to August 1945 and had previously lived in Greece for 17 years. He was not, however, to take up his position until Lambert was back in Athens.

On his return, Lambert encountered further difficulties. First of all, following a personal intervention by the president of the Hellenic Red Cross, Athanase Philon, Memo...
the duty-free status granted to parcels sent to the ICRC in Greece had been withdrawn. According to Lambert, this amounted to an attempt by Philon to appropriate the packages in order to distribute them as he saw fit, without allowing the ICRC any say in the matter. Secondly, the minister of public order had decided to suspend the dispatch of group consignments to the islands and allow only individual parcels.

Lambert urged the ICRC to postpone sending a second delegate to Athens until these matters could be settled. Overruling Lambert, the ICRC sent Wenger to the Greek capital on 18 October 1947.\(^{47}\)

It would take no less than five months of negotiations – lasting from 25 September 1947 to 23 February 1948 – and the resignation of the president of the Hellenic Red Cross, who was replaced by Konstantinos Georgakopoulos, to resolve these problems and to obtain the gradual release of ICRC consignments by the Greek customs authorities.\(^{48}\)

During this period, the ICRC deplored its inability to act. It even considered, after it had sent Wenger to Athens, temporarily paying customs duties so that its delegates could obtain the relief supplies required to begin their visits.\(^{49}\) But Lambert opposed this idea while reiterating the need to increase aid for Greek refugees, whose numbers had now reached 400,000. “By failing to do this,” he wrote, “the ICRC will be putting itself in a very difficult position vis-à-vis the government and will be accused by people from all sides of lacking impartiality. Forces across the country are rising up against communism with a passion that verges on fanaticism. Our steps are being watched, our acts are being monitored (...). It is not what we have done in the past that counts in the present situation but what we do now.”\(^{50}\) In another note to the ICRC, he wrote: “If I were to send the parcels to the islands right now, it would be folly, for we would be criticized and the press would attack us with a virulence that I hate to imagine.”\(^{51}\)

By this time, Wenger had received permission to visit the camps for political detainees in Ikaria but, in agreement with Lambert, he had decided that he could not go empty-handed. Instead, he visited refugee camps for Greeks and foreigners (Albanians, Bulgarians, Romanians and Yugoslavs) and then, at the request of the Ministry of Justice, distributed relief in the prisons in Salonika where large numbers of political detainees were being held.\(^{52}\)

\(^{47}\) Notes of 29 September and of 1 and 10 October 1947 from A. Lambert to the ICRC – ICRC Archives, B G 44/53c-226 and 237. Minutes of the meeting of the Bureau held on 2 October 1947, \textit{op. cit.}

\(^{48}\) Personal and confidential note of 23 February and note of 10 March 1948 from A. Lambert to the ICRC – ICRC Archives, B G 44/53c-237 and B G 3/27c IX.

\(^{49}\) Note of 24 October 1947 from the ICRC to A. Lambert – ICRC Archives, B G 3/27c VIII.

\(^{50}\) Strictly confidential note of 25 November 1945 from A. Lambert to the ICRC – ICRC Archives, B G 44/53c-237.

\(^{51}\) Note of 15 January 1948 from A. Lambert to the ICRC – ICRC Archives, B G 3/27c IX.

\(^{52}\) Note of 6 November 1947 from E. Wenger to the ICRC. Minutes of meetings held at the ICRC with E. Wenger on 24 and 30 March 1948 – ICRC Archives, B G 3/27c VIII and B G 44/53c-238. Note of 23 February 1948 from A. Lambert to the CICR, \textit{op. cit.}
The ICRC began increasingly to feel that its priorities and those of Lambert diverged and that Lambert did not sufficiently exploit the concessions made by the government in Athens. The ICRC had also been criticized over Lambert’s personal and family ties to the country. As a result, it was thinking of replacing him or at least bringing him back to Geneva for a debriefing.\(^{53}\)

In the meantime, there had been two new developments: restrictions on the distribution of relief had been lifted and Wenger had been declared *persona non grata* by the Greek government. The problem with Wenger, according to the authorities, was the number of years he had spent in Greece, especially during the occupation, and continual misunderstandings between him and the military authorities that prevented him from fully carrying out his duties.\(^{54}\) According to Wenger, the whole business stemmed from a distribution of clothing carried out in the prisons of Salonika with the full agreement of the Ministry of Justice but in which the Hellenic Red Cross had refused to take part and which the military authorities had opposed.

When Wenger left Athens on 20 March 1948, the ICRC feared that it would find itself without any delegate who met with the approval of the Greek authorities. It therefore decided to keep Lambert in his post but to call him back to Geneva for consultations. It also decided to assign another delegate to join him in Athens, at least temporarily. The new delegate, René Roth, had previously worked for the ICRC in Paris. He was asked to assess the situation and explore the possibilities for practical action in Greece. Before their departure for Athens, it was understood that the two delegates would be considered of equal rank and would take all decisions regarding the delegation’s work by common accord. In the event of any divergence of opinion, they would refer back to headquarters.\(^{55}\)

**Initial visits to places of detention**

ICRC visits to political detainees began in mid-June 1948, after the two delegates had informed the Hellenic Red Cross and the government in Athens of their plans and had received authorization to go to the islands.

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\(^{53}\) Personal and confidential note of 9 February 1948 from Martin Bodmer, vice-president of the ICRC, to A. Lambert. Minutes of the meetings of the Bureau held on 28 January, 5 and 19 February, 4 March and 28 April 1947 and of the meeting of the Delegations Commission held on 3 March 1947 – ICRC Archives, B G 3/27c IX and A PV.

\(^{54}\) Translation of a letter dated 20 March 1948 from the Ministry of Public Order to the Ministry of Foreign Affairs regarding E. Wenger, appended to a note dated 7 May 1948 from E. Wenger to the ICRC. Note of 22 January 1948 from A. Lambert to the ICRC and its annex – ICRC Archives, B G 44/53c-238 and B G 3/27c IX.

\(^{55}\) Minutes of the meetings of the Bureau held on 11 March, 28 April and 5, 13 and 19 May 1948 – ICRC Archives, A PV. Minutes of the meeting held at the ICRC on 7 May 1948, attended by R. Roth and A. Lambert, on the organization’s activities in Greece. Instructions of 19 May 1948 from R. Gallopin to A. Lambert and R. Roth, and letter of 24 May 1948 from the president of the ICRC, Paul Ruegger, to the Swiss ambassador in Greece, Karl T. Stucki – ICRC Archives, B G 44/53c-238 and B G 3/27c IX.
The first visit was conducted on the island of Gyaros, in the Cyclades, where over 8,000 convicted detainees were housed in tents and used as forced labour to build a vast prison complex.\footnote{Report by R. Roth on his special assignment to Greece from 20 May to 16 July 1948. Report by A. Lambert and R. Roth on their visit of 13 June 1948 to the prison camp in Gyaros – ICRC Archives, B G 3/27c IX and C SC, \textit{Rapports Grèce}, Vol. I.}

The second visit was conducted on Makronisos, a desert island in the Aegean Sea where two detention camps, also consisting of tents, had been set up and where drinking water had to be brought in by tanker ship. The first camp, in the western part of the island, served as a military re-education centre; the second, in the southern part, housed convicted detainees and those awaiting trial. The military centre was sub-divided into three compounds housing a total of 15,300 soldiers whom the authorities intended to convert from communists to “loyalists”, and a camp for 650 officers. The officers were placed in one of four categories, depending on how malleable or how intransigent they were considered to be. The second camp held 224 former EAM-ELAS leaders.\footnote{By December 1948, that number had grown to over 900.}

During the visit, and in the presence of the detaining authorities, these former leaders demanded compliance with the provisions of the Geneva Conventions. The delegates explained that the Conventions were not applicable in the present circumstances and that the ICRC’s visits depended entirely on the good will of the authorities.\footnote{Reports by A. Lambert and R. Roth on their visits of 14 June 1948 to the prison camp and the military re-education centre on the island of Makronisos – ICRC Archives, C SC, \textit{Rapports Grèce}, Vol. I.}

Lastly, the delegates visited the camps for civilian internees on the island of Chios and those for men only on the island of Ikaria, both in the Aegean Sea. In Chios, 1,050 people, including some 60 children, were living in overcrowded buildings where they slept on the bare floor. They considered themselves internal exiles – not detainees – and, on those grounds, their main demand was to be freed from confinement behind barbed wire. On Ikaria, one of the country’s poorest islands, some 2,300 exiles were scattered across a number of villages and hamlets.\footnote{Reports by A. Lambert and R. Roth on their visits of 2 July 1948 to Chios and 4–5 July 1948 to Ikaria – ICRC Archives, C SC, \textit{Rapports Grèce}, Vol. II.}

In the beginning, the visits took place in the presence of government officials. Once a degree of trust had been established, however, the delegates generally conducted their visits unaccompanied and without prior notice. They were also able to distribute relief (medicines, food, clothing)\footnote{Note of 9 March 1949 from P. Colombo to the ICRC delegation in Prague – ICRC Archives, B G 44/53c-242.} directly in the detention centres as the Hellenic Red Cross no longer insisted on acting as an intermediary. On the whole, even though the exiles were in need of substantial material aid, the delegates recorded few complaints and came away with the impression that the conditions of detention were not as bad as reported abroad, where they were compared to those experienced in Nazi concentration camps.

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41. Greece, 1951. Trikeri prison camp for women, ICRC relief supplies.
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At the end of his stay in Greece, Roth advised the ICRC to maintain its delegation in Athens, headed by Lambert.\(^{61}\) In December 1948, Lambert was granted permission to visit all prisons under the authority of the Ministry of Justice. By the end of August 1949, he had gone to more than 20 places of detention in and around Athens, in Thessaly, in the Peloponnese, in Epirus and in Corinth. The main problems he had observed were overcrowding, a lack of funds, the presence of children locked up with their mothers and the incarceration of convicted minors together with adults.\(^{62}\)

In July 1949, Lambert travelled for the first time to the island of Trikeri, off the coast of Volos, where a new camp had been set up for women. It held over 3,750 internal exiles, including women who had previously been held in Chios, and some 150 babies and children up to eight years old. The inmates were divided into three groups separated by barbed-wire fences, depending on their degree of “loyalty”. Lambert found the conditions of detention unsatisfactory from every point of view. As during each visit, he distributed relief and informed the ICRC of the prisoners’ needs.\(^{63}\)

In his reports on the visits, Lambert focused mainly on the material conditions of detention and the need for relief, given the limits to ICRC action imposed by the Greek authorities. At first, he sent the reports only to the Hellenic Red Cross but, starting in early 1949, he also submitted them to the ministries concerned (foreign affairs, justice, war, and public order). Lambert facilitated the liberation or transfer to hospital of gravely ill political detainees and made unofficial representations in the hope of obtaining royal pardons for those who had been sentenced to death – in some cases, he was successful.\(^{64}\)

In February 1949, as was customary at the time, excerpts from the ICRC’s reports on its visits to places of detention were published in the *Revue internationale de la Croix-Rouge*.\(^{65}\) This enabled the ICRC to make known its activities in Greece and to raise contributions towards aid for political detainees. It also reflected a positive change in attitude on the part of the Greek authorities. When asked about the matter, they voiced no objection, probably in the hope that this would dull any criticism levelled at them. However, it provoked the ire of the Provisional Democratic Government, which accused the ICRC of having described camps of “torture and barbarity”\(^{66}\) as humanitarian institutions.

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61 Report by R. Roth on his special assignment to Greece, *op. cit.*
64 Note of 6 June 1949 from A. Lambert to the ICRC – ICRC Archives, B G 3/27c X.
Makronisos

The conditions of detention on Makronisos took a turn for the worse after a new camp was set up for political detainees in the northern part of the island under the authority of the Ministry of Public Order. The first detainees to be transferred there, in December 1948, were 224 former leaders of EAM-ELAS, soon to be joined by the internal exiles from Ikaria. The living conditions were so appalling that, after his first visit to the camp in April 1949, Lambert immediately contacted the president of the Hellenic Red Cross to inform him of this, especially with regard to the lack of medical care. When he visited for the second time in July, the number of inmates had risen to 10,500. These included many communist leaders who were attempting to reconstitute political cells inside the prison. Lambert was violently criticized by certain detainees who reproached the ICRC for failing to publicly denounce the conditions of detention on Makronisos and he recorded numerous other complaints. While deploring that some groups were, in his opinion, nursing their grievances, Lambert nevertheless strove to bring about improvements in their living conditions.

Two other camps were set up near the military re-education centre in the western part of the island. The first was a special camp for civilians that came under the authority of the Ministry of War. It held over 7,700 detainees, including elderly people and children, who had been arrested for security reasons in areas where the fighting was taking place. The second, under the authority of the Ministry of Justice, was a camp for convicted minors that held 500 detainees and was designed to receive up to 2,000. In the military re-education camp, which the ICRC had already visited in 1948, the number of detainees had dropped to 8,200 (soldiers and officers combined), leading to a visible improvement in the living conditions.

During the second half of 1949, news campaigns denouncing, among other things, the “hellish conditions” on Makronisos grew increasingly virulent. The ICRC was inundated with appeals urging it to publicly denounce the regime of terror instituted by the government in Athens, including the ill-treatment inflicted on political detainees and the execution of persons tried by special courts martial. It strove to explain that its role was not to expose or criticize the conduct of public authorities, whoever they might

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67 Report by A. Lambert on his visit of 18 December 1948 to the camp on Makronisos, housing both convicted detainees and those awaiting trial, and note of 23 December 1948 from A. Lambert to the ICRC – ICRC Archives, C SC, Rapports Grèce, Vol. II, and B G 3/27c IX.


69 Reports on the visits of 3 April 1949 to the military re-education centre, of 16 May and 30 July 1949 to the special camp for civilians and of 20 June 1949 to the camp for detained minors, all on the island of Makronisos – ICRC Archives, C SC, Rapports Grèce, Vol. IV.

70 See, for instance, the open letter of 28 August 1949 written to the ICRC by the Swiss Committee for Aid to Democratic Greece and an article that appeared in Combat on 9 December 1949 – ICRC Archives, B G 44/53c-245 and 247. According to Polymeris Voglis, op. cit., p. 223, close to 37,000
be, but to bring practical assistance to those in need by whatever means it deemed most appropriate. Other organizations, it contended, were in a better position than the ICRC to enter the fray of political debate.\(^{71}\) It also took refuge behind the fact that, according to the letter of 3 May 1947 from Tsaldaris, it was not authorized to exercise any form of control over the treatment afforded to political detainees and could only assist them within the framework of its activities for civilians.

The ICRC nevertheless decided to allocate 280,000 Swiss francs of its own funds to purchase relief for Greek political prisoners, including 80,000 francs to cover immediate aid for those held on Makronisos. Lambert subsequently returned several times to the camp for political detainees under the authority of the Ministry of Public Order to deliver supplies donated by the ICRC and the Hellenic Red Cross.\(^{72}\) In mid-November 1949, following a reorganization ordered by the Greek government, this camp was dismantled. Henceforth, all places of detention on Makronisos, whether they held members of the military or civilians, came under the authority of the Ministry of War.\(^{73}\)

Later that year, judging that the situation on Makronisos needed closer monitoring, the ICRC again considered sending a second delegate to Greece. It regretted that, for lack of time, Lambert had been unable to visit certain parts of the island.\(^{74}\) It also wished to step up its visits to the other camps and prisons. Lambert was against this idea, fearing a backlash from the government in Athens.\(^{75}\)

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\(^{71}\) Minutes of the meeting between P. Colombo and Prof. André Bonnard, president of the Swiss Committee for Aid to Democratic Greece, held on 29 August 1949 – ICRC Archives, B C 44/53c-245.


\(^{73}\) Notes of 8 and 10 October and 8 December 1949 from A. Lambert to the ICRC – ICRC Archives, B G 3/27c X and B G 44/53c-247. Minutes of the meeting of the Delegations Commission held on 28 December 1949 and their annex – ICRC Archives, A PV.

\(^{74}\) See report by A. Lambert on his visit of 18 December 1948 to the camp for detainees (both convicted and awaiting trial) on Makronisos – ICRC Archives, C SC, Rapports Grèce, Vol. II. In December 1949, after the reorganization, Lambert had again been unable to complete his visit to Makronisos, according to his note of 9 March 1950 to the ICRC – ICRC Archives, B G 44/53c-249. Moreover, during his visit to the camp for exiled women on the island of Trikeri on 21 July 1949, Lambert had not had time to see one of the three groups of exiles – the one made up of women considered “most intransigent” – ICRC Archives, C SC, Rapports Grèce, Vol. IV.

\(^{75}\) Minutes of the meetings of the Delegations Commission held on 28 December 1949 and on 4, 12 and 25 January and 22 February 1950. Minutes of the meeting between P. Colombo and A. Lambert held on 22 February 1950 – ICRC Archives, A PV and B G 44/53c-249.
In March 1950, Lambert returned twice to Makronisos, where he conducted a full visit of all the camps and distributed 12 tonnes of relief. The overall number of people held at the time, whether political detainees, civilian internees or members of the military, had fallen to 10,600. The main problem remained the number of sick detainees – especially all those who had contracted tuberculosis – and the lack of medical care. Moreover, the detainees considered “intransigent”, both men and women, complained of ill-treatment. The authorities insisted that such accusations were unfounded.76

At that point, the ICRC received a telegram from the Bulgarian Red Cross enjoining it, the League of Red Cross Societies and the United Nations to intercede on behalf of the political detainees held on Makronisos. This prompted it to immediately send Roth back to Greece on a special assignment to visit the camp for political detainees on the island, to obtain an improvement in the conditions of detention and to facilitate the release of as many detainees as possible.77

On his arrival, however, the ICRC’s special envoy was informed by the minister of justice in Athens that the camps for civilian internees on Makronisos were to be dismantled and a large number of detainees freed in any event. Given these assurances and the fact that Lambert had just completed a visit to Makronisos, Roth cancelled his plans to travel to the island. He nevertheless took advantage of his trip to Athens to convince Lambert to accept the presence of a second delegate.78

**Larger delegation and increasing number of visits**

Germain Colladon arrived in Athens on 11 July 1950. He was given the title of secretary-general – rather than delegate or deputy delegate – in order to keep Lambert’s relations with the Greek authorities on an even keel and facilitate their acceptance of the new arrival. Colladon’s assignment was extended several times until 20 September 1951, so as to allow him to visit all the places where political detainees were being held.

During his stay in Greece, Colladon visited 80 places of detention under the authority of the Ministry of Justice throughout the country – including the islands – housing over 23,000 inmates, 16,000 of whom could be considered as political detainees. The largest centre, on the island of Gyaros, held some 6,800 inmates. Colladon visited the larger prisons several times in order to gather enough information for detailed reports and to distribute relief.

76 Notes of 9 and 16 March 1950 from A. Lambert to the ICRC – ICRC Archives, B G 44/53c-249 and 250. Reports by A. Lambert on the following visits: 30 March 1950 to the second military camp on Makronisos (B’E.T.O) and to the camps for exiled civilians; 29 March 1950 to the third military camp on Makronisos (G’E.T.O) and to the camps for convicted civilian minors; 30 March 1950 to the camp for exiled women on Makronisos; 29 March 1950 to the military prison and the prison camp on Makronisos; 29 March 1950 to the first military camp on Makronisos (A’E.T.O) and to the camp for exiled civilians (E.S.A.I) – ICRC Archives, C SC, *Rapports Grèce*, Vol. VI.

77 Minutes of the meetings of the Presidential Council held on 6 and 19 April and 4 May 1950 – ICRC Archives, A PV.

78 Minutes of the meeting of the Presidential Council held on 19 May 1950 – ICRC Archives, A PV.
The conditions were often deplorable in these places of detention, owing to overcrowding, the state of disrepair of the buildings and the almost complete absence of furniture, especially beds. Sanitary facilities were on the whole rudimentary, and food rations, although sufficient in quantity, provided little by way of nutrition. The worst problem was the lack of medical care, hospital beds and medicines, especially for tubercular patients. As for disciplinary measures, they seemed on the whole acceptable, with a few exceptions.\textsuperscript{79}

Poor conditions were observed, for instance, in the women’s section of Averoff prison in Athens, where over 750 inmates were living in quarters designed to hold no more than 300 to 350 people and where some 30 children aged eight months to three years were being held with their mothers. A total of 350 inmates had no beds, and many of the detainees were dressed in little more than rags. Only eight cement basins were available for washing clothes and for personal hygiene. These were used by all the detainees, including those suffering from contagious diseases. According to the prison director, whose urgent request for medicines was couched in irony: “The prison (…) is so well stocked with medical supplies that we have only one thermometer – a broken one, at that – for 200 patients.” Colladon, who provided food for the children, medicines and hygiene items, described the situation as follows: “We consider the sanitary conditions in the prison very poor. Not only does it seem unadvisable to keep [tubercular] patients behind bars but at the very least some prophylactic measures should be taken. We also deplore the living conditions in the prison, which holds over twice as many inmates as its maximum capacity allows for.”\textsuperscript{80}

Colladon delivered relief to most of the places of detention that he visited. Altogether, this amounted to some 55 tonnes of medicines, food, soap, clothing and blankets. He nevertheless underscored the inadequacy of the deliveries compared with the number of detainees and the scope of their needs.

In addition to visiting places of detention under the authority of the Ministry of Justice, Colladon made several trips to camps for political detainees controlled by the Ministry of Public Order on the islands of Aghios Efstratios (over 2,800 men) and Trikeri (close to 500 women), and to the sanatorium in Sotiria near Athens (some 30 patients), distributing over 25 tonnes of relief altogether.\textsuperscript{81} The visits to the islands where the largest numbers of detainees were held lasted anywhere from several days to one week.\textsuperscript{82}

\textsuperscript{79} Final report by G. Colladon on his assignment to Greece from 11 July 1950 to 20 September 1951 – ICRC Archives, B AG 252 084-003.
\textsuperscript{80} Report by G. Colladon on his visit of 19 September 1950 to the women’s section of Averoff prison in Athens – ICRC Archives, C SC, Rapports Grèce, Vol. VII.
\textsuperscript{81} Final report by G. Colladon, \textit{op.cit}.
\textsuperscript{82} ICRC Archives, C SC, Rapports Grèce, Vols VII, VIII, IX and XII.
In May 1951, the ICRC added 97,000 Swiss francs of its own funds to the contributions it had received from other donors, including the National Red Cross Societies of the Eastern-bloc countries, for the purchase of relief.\footnote{Minutes of the meeting of the Presidential Council held on 17 May 1951 and minutes of the meetings of the Commission for External Activities held on 26 September and 28 November 1951 – ICRC Archives, A PV.}

Around the same time, the ICRC launched a campaign to eradicate tuberculosis in prisons, in camps for internal exiles and among the population at large. Hélène Nussbaum, a senior ICRC nurse, organized clinical and X-ray examinations to determine which detainees required antibiotics. With the help of Greek doctors and the Hellenic Red Cross, hundreds were treated and monitored. The ICRC also provided medical aid for invalids, whether detained or not.\footnote{ICRC Annual Report 1952, p. 46; ICRC Annual Report 1953, pp. 55–56; and later reports.}

At the end of Colladon’s assignment, the ICRC took stock of its activities in Greece, which was the only country where it was providing assistance for political detainees. Given the positive results and the fact that it served as a useful intermediary for National Red Cross Societies of Eastern-bloc countries and other relief organizations wishing to provide aid for political detainees in Greece, the ICRC decided to pursue its activities in the country and to keep open its delegation in Athens.\footnote{Minutes of the meeting of the Commission for External Activities held on 28 November 1951 – ICRC Archives, A PV.}

**Greek refugees**

In 1946 and 1947, following the dissolution of the Managing Commission for Greek Relief, the country continued to receive consignments from the Joint Relief Commission of the International Red Cross and the International Centre for Relief to Civilian Populations.\footnote{See pp. 171 ff. above.} Those consignments enabled Lambert to organize, in cooperation with the Greek Ministry of Social Welfare, the Hellenic Red Cross and a number of other charitable associations, distributions of food, clothing and shoes to the most needy civilians, in particular tens of thousands of children.\footnote{Note of 10 June 1948 from A. Lambert to the ICRC and its annex – ICRC Archives, B G 44/53c-239.}

As the civil war raged on, however, relief supplies began to run out while the number of Greek refugees continued to grow. Lambert sent increasingly alarming reports back to headquarters, urging it to take action.

In Ioannina (Epirus), a region harbouring over 53,000 refugees in December 1948, many refugee families were living in tents covering a surface of only nine to 16 square metres, with an average of 30 people crammed into the larger ones. No distinction was made between men, women and children, between various age groups, or between the healthy and the ill as far as housing was concerned. Everyone was thrown together, with barely more than half a square metre of living space per person. The ground was

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muddy and water seeped in everywhere. The children were dangerously malnourished, were in deplorable health and many ran around barefoot in the mud. There were no mattresses and very few blankets, so people slept directly on the damp ground, three to a blanket.\footnote{Summary of a report on child refugees in Epirus dated December 1948, appended to a note from A. Lambert to the ICRC dated 18 October 1949. See also the report of 19 January 1949 by A. Lambert on his trips to Lamia, in Thessaly, made in December 1948 and in January 1949, and the report presented by the Hellenic Red Cross to the League’s Executive Council at its meeting held in October 1949, appended to a note from A. Lambert to the ICRC dated 3 December 1949 – ICRC Archives, B G 44/53c-246, 241 and 247.}

By the end of 1948, the number of refugees in the country stood at some 700,000 – equal to over nine per cent of the Greek population.

In February 1949, Martin Bodmer, the ICRC’s vice-president, returned from a trip to Greece very disturbed by what he had seen in the refugee camps and convinced that the ICRC must alert public opinion. De Traz, who arrived in Greece in June 1949, agreed with Bodmer. Considering that it could not remain silent in the face of such a dire situation – all the more so as the refugee problem was a result of a civil war and its delegates had witnessed the suffering with their own eyes – the ICRC decided to issue a public statement. It also believed that the testimony of a neutral organization could prove useful at a time when the matter was about to be examined by the United Nations.\footnote{Minutes of the working meetings of the Committee held on 31 March, 9 June, 28 July and 25 August 1949; minutes of the meeting of the Delegations Commission held on 8 June 1949; and minutes of the meeting of the Presidential Council held on 23 June 1949 – ICRC Archives A PV. Minutes of the meeting of 23 June 1949 between the ICRC and the League – ICRC Archives, B G 44/53c-244. It should be noted that a large-scale operation had just been launched by the United Nations Relief for Palestine Refugees (UNRPR) agency and that the distribution of the consignments had been entrusted to the ICRC, the League and the American Friends Service Committee (Quakers). See pp. 458 ff. above.}

Meanwhile, the League asked the ICRC to sign an appeal that it was drafting on behalf of Greek refugees pursuant to a resolution adopted in April 1949 by its Executive Council on the basis of a report issued by the Hellenic Red Cross. The ICRC agreed, although it nonetheless intended to launch its own appeal targeting a different audience.\footnote{Minutes of the meeting of the Presidential Council held on 23 June 1949 and minutes of the ICRC-League meeting held on the same day, \textit{op. cit.}}

The joint ICRC-League appeal was sent on 22 July 1949 to all the National Red Cross Societies, which were asked to send their contributions directly to the Hellenic Red Cross on the basis of a list of needs drawn up by the Greek Society.\footnote{Document D 21 – ICRC Archives, B G 44/53c-244. This appeal was published in \textit{RICR}, No. 369, September 1949, pp. 733–737.}

On 7 September 1949, The ICRC sent a report describing the conditions in which Greek refugees were living to all the governments likely to take an interest in the problem, to the UN specialized agencies and to some 20 national and international
aid organizations. It also sent the report to all the National Red Cross Societies. In its report, the ICRC underscored the unacceptable overcrowding in the camps, the lack of medical care, the absence of schooling for children and the fact that so many adults were forced to remain idle. It also stressed the fact that the Greek economy, which had been shattered by the war, was unable to meet the needs of these 700,000 people.\footnote{Document D 21\textsuperscript{*} – ICRC Archives, B G 44/53c-245. This report was published in \textit{R/ICR}, No. 370, October 1949, pp. 862–863.}

Following the joint appeal launched by the ICRC and the League, a dozen National Societies sent relief to the Hellenic Red Cross.\footnote{Note of 22 May 1950 on the results of the joint appeal of 22 July 1949 – ICRC Archives, B G 44/53c-251.}

Moreover, according to information sent by the ICRC to its delegate in Athens in March 1950, the ICRC report played a key role in the decision taken by the United States to allocate sizeable additional funds to Greece within the framework of the Organization for European Economic Cooperation.\footnote{Confidential letter of 31 March 1950 from J. Chenevière to A. Lambert – ICRC Archives, B G 3/27c-X.}

By mid-1950, at the end of the civil war, the number of refugees had dropped to 200,000. Moving them back to their villages, however, remained a dilemma owing to the wholesale destruction and the dearth of basic supplies.\footnote{Minutes of the working meeting of the Committee held on 8 June 1950 – ICRC Archives, A PV.}

\textit{ICRC relief in figures}

The relief distributed by the ICRC in Greece between January 1947 and December 1954 came to a total value of nearly 3.5 million Swiss francs. About 2 million francs’ worth of this went to destitute civilians (including 64,000 francs to victims of the earthquake that struck the Ionian islands in 1953), 1.4 million to political detainees and 100,000 to war invalids, including a number of political detainees.\footnote{Summary Report on the Work of the International Committee of the Red Cross (1st July 1947–31st December 1951), \textit{op. cit.}, pp. 102–103; ICRC Annual Report 1952, p. 38; ICRC Annual Report 1953, p. 39; and ICRC Annual Report 1954, p. 44.}

Civilians were the main beneficiaries of relief until January 1949, when the tide began to turn in favour of political detainees. This is because virtually all the donations received by the ICRC in 1946 and 1947 – which surpassed those received over the previous three years – were allocated to civilians. Moreover, the ICRC delegate in charge of distributions had staggered them to ensure a counterbalance to his activities for political detainees. As for the contributions received from 1948 – when ICRC prison visits began in earnest – to 1950, these were almost entirely earmarked for political detainees.\footnote{Note of 6 November 1950 from the ICRC to A. Lambert – ICRC Archives, B G 44/53c-254.}
**Athens delegation shut down**

The ICRC closed its delegation in Athens in 1955. At the time, the number of prisoners held under the authority of the Ministry of Justice stood at 8,800 – about half of whom were political detainees – and the number of opponents sent into internal exile at 900.\(^98\)

From then on, the ICRC’s visits to places of detention in Greece were carried out by delegates sent on temporary assignments.\(^99\) The last visit took place in late 1963, a year after the emergency laws promulgated during the civil war had been repealed.

**Relations with Greek partisans**

As of September 1946 and then following the wave of arrests and transfers to internment camps that took place in July 1947, EAM approached the ICRC’s delegate in Athens several times to request protection and assistance for “exiled Greek hostages.”\(^100\)

In September 1947, EAM’s representative in France visited ICRC headquarters in Geneva to discuss the matter. The ICRC took the opportunity to stress the principle of reciprocity.\(^101\) On 17 October 1947, the representative informed the ICRC that General Markos, commander-in-chief of the Greek Democratic National Army, was prepared to let the ICRC carry out its humanitarian tasks in the “liberated areas”, provided the organization made a formal offer of services.\(^102\)

The ICRC felt that it could not accede to EAM’s request as this might be interpreted as a political move by the government in Athens, which was firmly opposed to any form of recognition being granted to the enemy.\(^103\) The organization decided

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\(^99\) Minutes of the meeting of the Presidential Council held on 30 December 1954 and minutes of the meetings of the Commission for External Activities held on 7 June and 25 October 1955, and their annex – ICRC Archives, A PV.

\(^100\) Translation of the letter of 28 July 1947 from EAM’s Central Committee to A. Lambert, appended to the note of 31 July 1947 from Lambert to the ICRC – ICRC Archives, B G 44/53c-236.

\(^101\) Minutes of the meeting of 5 September 1947 between ICRC Vice-President Ernest Gloor, R. Gallopin and Vassos Georgiou, EAM’s representative in France – ICRC Archives, B G 44/53c-236.

\(^102\) Letter of 17 October 1947 to the ICRC from EAM’s representative in France – ICRC Archives, B G 44/53c-237.

\(^103\) Shortly before, the Conference of Government Experts convened by the ICRC in Geneva from 14 to 26 April 1947 had proposed that, if the Geneva Conventions were to be applied in civil war, this should have no impact on the legal status of the belligerents. The Greek delegate to the Conference had supported this proposal, and it was eventually incorporated into Art. 3 of the 1949 Geneva Conventions applicable to non-international armed conflict. In its final paragraph, Art. 3 stipulates that: “The application of the preceding provisions shall not affect the legal status of the Parties to the conflict.”
instead to contact General Markos through its delegates in Greece\textsuperscript{104} in order to determine what kind of action it could undertake for the partisans.\textsuperscript{105}

Informed of this, Lambert wrote a letter to General Markos on 16 December 1947 asking for a meeting. He had taken the precaution of first informing the government in Athens and the king of his intentions, advancing as one of his reasons the need to ensure the safety of the villages built by the Swiss Relief Fund – the village in Dovras, Macedonia, had been looted in October by partisan forces. While the government did not openly object to the meeting, it shut its eyes to what was going on and declined any responsibility for the outcome.\textsuperscript{106}

A few days later, Lambert’s letter to General Markos was handed over to partisans by an employee of the Swiss Relief Fund in Dovras. The Fund’s members had made contact with partisans in the area, hoping to recover objects stolen from the children’s village two months earlier. The partisans agreed to pass on the letter to their leader but asked, in exchange, to be allowed to purchase various supplies (tinned goods, ink for copying machines, paper and string). The Fund’s employee agreed to this request, without consulting Lambert. During an ambush set for the insurgents in January 1948, the Greek authorities learnt of this transaction and accused the employee of aiding the enemy. After interventions by the Swiss ambassador and Lambert, they agreed to handle the case discreetly and allowed the employee to return to Switzerland forthwith.\textsuperscript{107}

During this time, the Provisional Democratic Government had been set up, with General Markos as its president. On 23 December 1947, Markos sent a letter to the ICRC stating his willingness to abide by the principles of humanity and denouncing the “barbarity” of the “monarcho-fascists”. He requested the intervention of the ICRC and declared himself ready to sign any agreement “intended to alleviate the unjust and needless consequences of the civil war, provided the agreement was reciprocal”.\textsuperscript{108}

The letter did not reach the ICRC until three months later, through the intermediary of the Swiss Medical Centre, a major donor of relief to Greek political

\textsuperscript{104} At the time, A. Lambert, but also E. Wenger, who had already met General Markos while working for the ICRC in Greece during the Second World War.

\textsuperscript{105} Minutes of the meeting of the Bureau held on 13 November 1947. Note of 21 November 1947 from Vice-President Ernest Gloor to the ICRC delegation in Athens – ICRC Archives, A PV and B G 3/27c VIII.

\textsuperscript{106} Notes of 10 and 13 December 1947 from A. Lambert to the ICRC. Letter of 16 December 1947 from A. Lambert to General Markos. Minutes of the meeting of the Bureau held on 18 December 1947 – ICRC Archives, B G 44/53c-237 and A PV.

\textsuperscript{107} Confidential report of 13 February 1948 on the situation in Dovras drawn up by Dr de Fischer and A. Lambert, and note of 23 February 1948 from A. Lambert to ICRC Vice-President Ernest Gloor. Report by A. Lambert on his trip to Salonika and Dovras from 6 to 9 March 1948. Minutes of the meeting held in Bern on 5 May 1948 for representatives of the ICRC and the Swiss Relief Fund, drawn up by P. Colombo of the ICRC. Minutes of the same meeting drawn up by M. Fragnière of the Swiss Relief Fund – ICRC Archives, BG 44/53c-237 and 238.

\textsuperscript{108} Letter of 23 December 1947 from General Markos, president of the Provisional Democratic Government of Greece, registered by the ICRC on 1 April 1948 – ICRC Archives, B G 44/53c-237.
detainees. At a time when the Hellenic Red Cross had recently protested the abduction of children by insurgent forces and their transfer to neighbouring countries, the ICRC considered it more useful than ever to meet with General Markos, inform him of its activities for political detainees and discuss the situation of Greek soldiers in partisan hands and the fate of Greek children. It informed Markos on 19 May 1948 that it had asked its delegation in Athens to get in touch with him as soon as possible to examine the points raised in his letter of 23 December 1947.

Lambert and Roth decided to contact the partisans via the president of the National Solidarity Committee, but this plan fell through when the latter was arrested. Meanwhile, government forces had launched large-scale military operations along the entire border, making it difficult to cross the front lines and, to further complicate matters, partisan headquarters were constantly shifting location. The delegates therefore suggested that the ICRC meet with Markos in Prague, where he was due to attend a congress.

However, the ICRC considered it inappropriate to hold such a meeting outside Greece. For his part, in a further letter, General Markos evaded the ICRC’s proposal and simply provided an address in Budapest where the organization could send relief intended for Greek civilians.

There the matter stood until December 1948, by which time the ICRC had received many enquiries regarding missing soldiers and civilians allegedly held by the partisans. At that point, it decided to write to Markos at the Budapest address, offering to forward the enquiries to him. In mid-February 1949, after receiving an encouraging reply from the Provisional Democratic Government, it sent all the enquiries to Budapest. It also decided to reach out to representatives of the Provisional Government whom it had learned were in Prague.

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109 Minutes of the meeting of the Bureau held on 31 March 1948 – ICRC Archives, A PV.
110 Minutes of the plenary meeting of the Committee held on 21 April 1948 and of the meeting of the Bureau held on 19 May 1948. Minutes of the working session of 7 May 1948 on the activities of the ICRC in Greece. Note of 19 May 1948 for the ICRC delegation in Athens on discussions with General Markos and letter of 19 May 1948 from R. Gallopin, ICRC director and delegate, to the latter – ICRC Archives, A PV, B G 44/53c-238 and G 3/27c IX.
111 Notes of 27 May, 22 and 24 June and 1 July 1948 from R. Roth to the ICRC. Note of 15 May 1948 from R. Gallopin to the ICRC delegation in Athens. Report by R. Roth on his special assignment to Greece from 20 May to 16 July 1948 – ICRC Archives, B G 44/53c-239 and B G 3/27 IX.
112 Minutes of the plenary meeting of the Committee held on 23 June 1948 – ICRC Archives, A PV. In this document, the ICRC gave no reason for its stance. It probably feared the publicity that might surround such a meeting and the inevitable reaction of the government in Athens.
113 Letter of 18 June 1948 from General Markos to the ICRC – ICRC Archives, B G 44/53c-239.
The representatives, contacted in April 1949, proved to be highly critical of the ICRC’s activities. Referring to an article that had appeared two months earlier in the *Revue internationale de la Croix-Rouge*, they claimed that the ICRC’s visits were not only useless but were sometimes detrimental to political detainees. They contested most of the observations made by ICRC delegates and claimed to have testimonies from former detainees that completely contradicted what was stated in the article. They also reproached the ICRC for not having denounced the mass executions of partisans.

The ICRC defended itself, countering that its delegates not only provided material relief for the detainees but also gave them, by their very presence, needed moral support. It could advance proof, it further stated, that its visits were appreciated by many detainees.

Ultimately, the representatives of the Provisional Government asked the ICRC to step up and broaden its activities. To this end, they wanted the ICRC to ensure that a second delegate accompanied Lambert, whose objectivity they called into question, on his visits. They also asked the ICRC to pursue its negotiations aimed at obtaining the agreement of the government in Athens to apply the provisions of the Geneva Conventions to its captives – as the partisans applied them to the Greek soldiers in their hands. They threatened reprisals if such assurance were not given. Lastly, the Provisional Government announced that it was ready to allow the ICRC to visit its prisoners, but only on a reciprocal basis. It also agreed to answer some 2,000 enquiries that it had received from the ICRC concerning persons who had gone missing in connection with the conflict.115

Following its contacts with the representatives of the Provisional Government in Prague, the ICRC decided to post a second person to its delegation in Athens. In anticipation of this move, it sent David de Traz to the Greek capital. However, Lambert, who enjoyed excellent relations with the authorities and was allowed to visit all prisons and camps freely, convinced de Traz that the government in Athens would consider the arrival of a second delegate unjustified unless the volume of relief increased. The ICRC consequently backtracked, deciding to build up its relief operations before increasing its visits to detainees.116

At the same time, the ICRC contacted the Provisional Government, offering to send two delegates – whose names it submitted for approval – to visit detainees in partisan hands.117 Its offer was accepted by the partisans “on the condition of reciprocity, meaning that similar visits will be conducted simultaneously in monarcho-fascist

115 Note of 19 April 1949 from G. Meyer-Moro to the ICRC and note from P. Colombo on his visit to Prague from 20 to 21 April 1949 – ICRC Archives, B G 44/53c-243 and A CL 16.004.009.
116 Memorandum on the Greek issue drawn up by D. de Traz on 9 May 1949 – ICRC Archives, B G 44/53c-243. Minutes of the meetings of the Delegations Commission held on 11 and 18 May and 8 June 1949 and their annex, and minutes of the meetings of the Presidential Council held on 12 and 19 May 1949 – ICRC Archives A PV.
117 Letter of 1 June 1949 from R. Gallopin to P. Kokkalis, member of the Provisional Democratic Government, to the ICRC – ICRC Archives, B G 44/53c-244.
Greece with the participation, as co-delegate, of a respected Swiss citizen to be designated by us and approved by you”.

Although it was uneasy about this proposal, which did not conform to its customary procedures, the ICRC nevertheless decided to submit the idea in principle to the government in Athens and to inform the Provisional Government that it had done so.

In reply, the ICRC received a letter from the Hellenic Red Cross – reflecting the position of the government in Athens – declaring that “claims” to reciprocity made by “criminals” were unacceptable and devoid of any legal or moral basis.

The National Society’s reply was shared in November 1949 with a member of the Provisional Government visiting Switzerland. As the civil war had by that time come to an end, there was no longer any question of sending an ICRC delegate to territory controlled by the partisans.

Search for missing persons and family reunification

Repatriation of Greek children

As early as February 1948, the Greek government denounced to the United Nations the abduction of Greek children by insurgents and their deportation to neighbouring countries. At the same time, the Hellenic Red Cross put the matter before the League of Red Cross Societies. It informed the ICRC of this, while explaining that it had approached the League because, according to the Greek authorities, the violence that had erupted in the country was being dealt with by police operations and therefore fell outside the ICRC’s mandate.

The government in Athens contended that the abductions were tantamount to the systematic removal of tens of thousands of children from Greece and their deportation to neighbouring States in the north in order to forcefully indoctrinate them “with an ideology that [was] not only different from but – far worse – diametrically opposed

118 Letter of 25 June 1949 from P. Kokkalis, member of the Provisional Democratic Government of Greece, to the ICRC – ICRC Archives, B G 44/53c-244.
119 Letter of 10 August 1949 from P. Kokkalis to R. Gallopin – ICRC Archives, B G 44/53c-244.
120 Minutes of the working sessions of the Committee held on 14 and 28 July 1949 and minutes of the meeting of the Presidential Council held on 18 August 1949 – ICRC Archives, A PV. Highly confidential note of 26 July 1949 from P. Colombo to ICRC President Paul Ruegger. Letter of 5 August 1949 from R Gallopin to P. Kokkalis. Letter of 23 August 1949 from the ICRC to the president of the Hellenic Red Cross – ICRC Archives, B G 44/53c-244 and 245.
121 Letter of 11 October 1949 from the president of the Hellenic Red Cross, C. Georgacopoulos, to R. Gallopin and telegram of 7 November 1949 from the Greek National Society to the ICRC – ICRC Archives, B G 44/53c-246.
122 Notes of 12 and 26 March 1948 from A. Lambert to the ICRC and their annexes – ICRC Archives, B G 3/27c IX. Minutes of the meeting of the Bureau held on 17 March 1948 – ICRC Archives, A PV.
to that of their home country, in order to form future cells able to accomplish what the bravery of the Greek army and the perseverance of the Greek people [had] until [then] prevented." The “abductions” were denounced by Athens as “yet another crime of genocide”. According to General Markos and the countries backing him, the purpose was, on the contrary, to take children out of harm’s way and deliver them to safety far from the bombings, the destruction and the shortages of basic necessities.

In view of the conflicting positions adopted by the two parties, the ICRC considered that the evacuation of Greek children across the country’s northern borders was mainly a political issue and that to press for their repatriation would amount to taking a political stance against Markos and the States harbouring them. The ICRC therefore decided not to intervene unless the parties reached an agreement under the aegis of the United Nations. In that case, it would consider taking steps to help implement the agreement. Until then, however, all it could do was to try to obtain lists of children’s names and to facilitate the exchange of family news.

**UN resolutions and joint ICRC-League action**

On 27 November 1948, the United Nations General Assembly unanimously adopted a resolution, reaffirmed in subsequent years, recommending the return of Greek children to their homes. It read as follows:

> The General Assembly,

> (...) Invites all the Members of the United Nations and other States on whose territory these children are to be found to take the necessary measures for implementation of the present recommendation;

> Instructs the Secretary-General to request the International Committee of the Red Cross and the League of Red Cross and Red Crescent [sic] Societies to organize and ensure liaison with the national Red Cross organizations of the States concerned with a view to empowering the national Red Cross organizations to adopt measures in the respective countries for implementing the present recommendation.

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123 Note of 3 December 1949 from the League to the ICRC and its annex: report given by the representative of the Hellenic Red Cross during the meeting of the Executive Council of the League in October 1949 – ICRC Archives, B G 44/53c-247. See also the memorandum of 23 February 1948 from the Royal Legation of Greece to Switzerland, appended to the note of 9 March 1949 from the Swiss Department of Foreign Affairs to the ICRC – ICRC Archives, B G 44/53c-2424.

124 Letter of 27 February 1948 from the government in Athens to the United Nations Special Committee on the Balkans, appended to a note from A. Lambert to the ICRC dated 26 March 1948 – ICRC Archives, B G 3/27c IX.

The fact that the resolution was adopted unanimously – by all the countries concerned with the fate of the children – authorized the ICRC to accept the mandate conferred on it jointly with the League.

On 11 January 1949, the UN secretary-general, Trygve Lie, asked the ICRC and the League to invite the government in Athens and the Hellenic Red Cross, on the one hand, and the governments and National Societies of the countries where the children were living, on the other, to examine various measures designed to implement the resolution. At the same time, he sent a message to the governments of the countries concerned – Albania, Bulgaria, Czechoslovakia, Greece, Hungary, Romania and Yugoslavia, and later, in September 1949, Poland – asking them to lend their support to the two International Red Cross organizations.127

Drawing on its expertise in tracing missing persons, the ICRC, together with the League, decided to adopt the following procedure: first of all, obtain from each host country a list of all Greek children present in its territory; secondly, compare the lists obtained with those drawn up by the Hellenic Red Cross on the basis of repatriation requests submitted by the parents; thirdly, use this information to compile a list of children to be repatriated from each host country; lastly, discuss repatriation measures with each Red Cross Society concerned. This seemed like the most logical way to proceed since most of the parents who had remained in Greece did not know where their children were.

The ICRC and the League also believed that it was essential, for liaison purposes, to establish personal contacts with each National Society. To that end, in late January 1949, the two organizations asked the Societies concerned to receive a joint team of delegates for an initial exchange of views on the various issues raised by the UN resolution.

Between February and May 1949, ICRC and League teams thus travelled to Greece, Bulgaria, Czechoslovakia and Yugoslavia. In Greece, they received formal written assurances from the government in Athens that no discriminatory measures of any kind would be taken against repatriated children on the basis of their religious beliefs or ideological affiliations, or those of their parents, or on any other grounds. The delegates also noted, upon visiting several children’s homes, that the Hellenic Red Cross was in a position to feed, shelter and meet the other basic needs of any repatriated children who could not immediately be returned to their families (those whose parents were either being detained or assumed to be fighting with the partisans). In the other three countries, delegates held technical discussions on the establishment of lists, obtained figures for the number of children present in their territory and, in Bulgaria and Yugoslavia, visited a number of children’s shelters. They learnt that some 13,500 children had passed through Yugoslavia, including 3,550 on their way to Czechoslovakia, 3,050 to Hungary, 500 to Poland and 6,400 to Romania. An additional 1,800 or so children had remained in Yugoslavia, where they were housed in Red Cross shelters, and some 3,300 were living with their parents or with other Greek refugee families.

Unfortunately, no joint team was able to travel to Hungary, Romania or Albania – the latter claiming that it no longer harboured any Greek children.\(^\text{128}\)

Despite oral assurances given by the Bulgarian and Czechoslovak Red Cross Societies, and despite numerous reminders from the ICRC and the League, neither country provided any lists of children. Meanwhile, the ICRC was inundated with thousands of repatriation requests forwarded by the Hellenic Red Cross.

In the second half of 1949, therefore, the ICRC and the League changed tack, along lines suggested by the Yugoslav Red Cross. At headquarters in Geneva, they compiled alphabetical lists of children, in both Greek and Latin scripts, on the basis of requests from parents that had been forwarded by the Hellenic Red Cross after being filled out under its supervision. The lists were then sent to the host countries, which were asked to identify those children residing within their borders.

In September 1949, the Czechoslovak Red Cross forwarded the names of 138 children whom it had thus identified.

In January 1950, given the meagre results obtained so far, the ICRC and the League invited the Hellenic Red Cross and the Red Cross Societies of the host countries to attend a meeting on the subject to be held in Geneva in mid-March. This step was a resounding failure since only the Hellenic Red Cross showed up. The ICRC and the League therefore resumed their bilateral approaches.

The guarantees demanded by the Czechoslovak Red Cross for repatriating identified children\(^\text{129}\) led the ICRC and the League, in April 1950, to consult the other National Societies concerned regarding the practical aspects of repatriation operations. Their approaches usually took the form of letters since most of the offers they made to visit the host countries were declined.

In order to justify their refusal to repatriate children, countries invoked the large numbers of refugees in Greece, the crowded conditions in which they lived, the widespread poverty, the detention or banishment to the islands of certain parents and the fact that Greece had incarcerated some children. They also challenged the authenticity of the requests – in some cases, one or both parents were actually living in the same country as their children – and claimed that these had been obtained through coercion.\(^\text{130}\)

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129 The Czechoslovak Red Cross required, for each child, an official document attesting to his or her full identity. For parents who had signed a repatriation request, it required (a) an official or legally certified document attesting to their identity, their degree of kinship with the child or children to be repatriated and, in the case of relatives other than the mother or father, giving the reason(s) for their request; and (b) a statement certifying that they had made the request of their own free will, under no threat or constraint. From the international Red Cross organizations, it demanded a guarantee that the repatriated children and their parents would not be subject to any form of individual prosecution.

130 E.g. letter of 21 September 1949 from the Hungarian Red Cross to the ICRC, letter of 29 June 1950 from the Romanian Red Cross to the ICRC and the League, letter of 8 October 1950 from P. Kokkalis, chairman of the Central Bureau of the Committee for Aid to Greek Children, in
At the request of the Budapest-based Committee for Aid to Greek Children\textsuperscript{131} and the Red Cross Societies of several host countries, the ICRC and the League were also involved, within the general framework of family reunification, in efforts to bring Greek children living in Yugoslavia back together with their parents in other host countries, such as Czechoslovakia, Hungary, Poland and Romania, and vice versa. These efforts, which generated substantial correspondence, were no more successful than the earlier ones.

The only two exceptions to this bleak picture were the reunification in mid-1950 of Greek children living in Yugoslavia with their parents who had emigrated to Australia and the repatriation of children from Yugoslavia to Greece beginning in late 1950.

To sum up, by September 1952, the ICRC and the League had handed over to the host countries half a dozen lists, written out in both Greek and Latin scripts, bearing the names of over 12,000 children declared missing by their families in Greece. The Czechoslovak Red Cross had identified 138 of these children, but none had been repatriated even though all the technical conditions imposed by the National Society had been met. The main reason for this delay was the fact that the two international organizations – mainly the ICRC – had been accused of helping to collect fraudulent repatriation requests in Greece and had refused to answer the following question, put to them by the Czechoslovak Red Cross: “Are there not, in Greece, children who are being detained in prisons, in concentration camps and in agricultural colonies, and are there not children who are dying as a result of political discrimination?”\textsuperscript{132} However, the government in Athens had renewed its assurances that repatriated Greek children would be immediately reunited with their families and that no one would be prosecuted or suffer any form of political discrimination. The ICRC and the League therefore considered that the National Society’s question had no bearing on the future of children repatriated from Czechoslovakia and was unrelated to the problem of displaced Greek children. As for the Bulgarian, Hungarian and Romanian Red Cross Societies (the Polish Red Cross having declared that there were no Greek children sheltering in its territory), they made no comment on the lists.

To make matters worse, the few repatriation operations already carried out from Yugoslavia were highly criticized as they had involved returning to Greece children whose parents were living in other countries. In one case, where both the mother and the father were asking for the return of their child, one parent lived in Greece and

\textsuperscript{131} A Committee that was close to the Provisional Democratic Government of Greece and whose address had been sent to the ICRC by General Markos.

\textsuperscript{132} RICR, No. 409, January 1953, p. 26. Following the distribution of relief earmarked for children in Greek camps and prisons at the request of the Czechoslovak Red Cross, the latter had received ICRC technical reports referring to incarcerated children. These were toddlers whom the Greek authorities did not want to separate from their mothers and, according to those authorities, young delinquents such as could be found in all countries in the world. See also: minutes of the meeting of the Presidential Council held on 12 June 1952 – ICRC Archives, A PV.
the other lived abroad but not in Yugoslavia. One can easily imagine the difficulties presented by such a case, given the political climate at the time.

By the end of September 1952, the ICRC and the League considered that they had exhausted every possible means of resolving the problem of Greek children displaced to any country other than Yugoslavia. In early October, they therefore informed the UN secretary-general that they had no choice but to suspend their activities on behalf of these children, while declaring that they were nonetheless ready to resume their efforts should the UN or the governments concerned make it possible for the Red Cross to act usefully. They also offered to help organize repatriation operations for any government that so wished.\(^{133}\)

On 17 December 1952, the UN General Assembly adopted a fifth resolution on the repatriation of Greek children in which it approved the decision made by the ICRC and the League to suspend their activities “until such time as conditions making practical action by the Red Cross possible and useful are established”. It nonetheless invited the two organizations to continue their work in Yugoslavia.\(^ {134}\)

In the course of 1953, while repatriation operations continued from Yugoslavia, they finally got under way from the other host countries.

**Repatriation operations**

In May and June 1950, at the request of the Australian and Yugoslav governments, the ICRC and the League organized the departure from Yugoslavia, via Switzerland and Italy, of four groups of Greek children – 17 in all – bound for Australia, where their parents had emigrated, along with a mother of four.\(^ {135}\)

A convoy of 21 children repatriated from Yugoslavia arrived in Greece on 25 November 1950. In his report, the delegate representing the ICRC and the League, who had been sent to Greece three weeks earlier to facilitate the operation, described an emotional scene he had witnessed in the following terms:

> There was a boy named Antoniadès, whose uncle, believing the boy’s father dead and thinking that he was his only living relative, had come to Salonika to meet his nephew.

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133 Minutes of the meeting of the Presidential Council held on 21 August and their annexes, and minutes of the meeting of the Presidential Council held on 4 December 1952 – ICRC Archives, A PV.


after seeing his name in the paper. The uncle and the nephew, having found each other and spoken sadly of the father’s death, suddenly burst into cries of joy upon seeing the father, alive and well, appear at the door. The father had been informed by the Hellenic Red Cross that his son was to be repatriated. All three, overcome by emotion, rejoiced and shed tears of gratitude. Only one child, who had left Greece when he was three or four years old, had trouble recognizing his father, who was nearly 70. But he quickly recognized his mother when she arrived the next day.  

By 1953, this operation had been followed by six others which enabled 578 Greek children to be repatriated from Yugoslavia. The same year, 4,611 Greeks, both adults and children, returned home from Yugoslavia and Romania.

In 1954, following negotiations begun in September 1951, 1,233 Greek adults and children were repatriated from Hungary, via Austria and Italy, under the auspices of the ICRC and the League. Two sea convoys also carried 1,735 people from Romania to Greece, accompanied by representatives of the two organizations and of the Romanian and Hellenic Red Cross Societies. The ICRC learnt that an additional 56 Greeks had been repatriated from Bulgaria, 791 from Czechoslovakia and 46 from Yugoslavia.

In 1955, the ICRC and the League helped 157 Greek adults and children, who were living in Poland and Romania, rejoin their families in Greece and Australia. Lastly, in 1956 and 1957, 76 Greeks left Romania for Australia.

Overall, repatriation operations enabled over 9,280 Greek nationals to rejoin their families in Greece and Australia.

These operations required numerous representations to the host countries and to the countries of destination and transit, which were facilitated by the permanent presence on the spot of ICRC delegates – as in Austria and Greece – and by the dispatch of joint ICRC-League teams to Greece and to the host countries. The operations also benefited from the active participation of the National Red Cross Societies of the countries concerned and of the Swedish Red Cross, which provided the Yugoslav Red Cross with technical assistance. They gave rise to abundant correspondence – letters, telegrams, files, lists of names, copies of marriage and birth certificates and other

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139 Minutes of the working meetings of the Committee held on 13 and 20 September and 8 November 1951, and on 12 January 1954. Minutes of the meeting of the Presidential Council held on 25 February 1954 – ICRC Archives, A PV.
143 *ICRC Annual Report 1955*, p. 36, and *ICRC Annual Report 1956*, p. 40. The figures published by the ICRC did not distinguish between the numbers of adults and children who were repatriated.
official documents – and required the close examination of all repatriation requests coming from Greece; the checking of lists and other information provided by host countries; the consultation of special files set up in Geneva on the model of those compiled by the Central Prisoners of War Agency; the obtention of exit, transit and entry visas; and the organization of air, sea and land transport.

**Members of Greek armed forces captured by partisans**

On 1 December 1950, the UN General Assembly adopted a resolution on the repatriation of members of the Greek armed forces captured by partisans and taken to countries north of Greece that read as follows:

The General Assembly,

(...) 1. Recommends the repatriation of all those among them who express the wish to be repatriated,

2. Calls upon the States concerned to take the necessary measures for the speedy implementation of the present resolution,

3. Instructs the Secretary-General to request the International Committee of the Red Cross and the League of Red Cross Societies to ensure liaison with the national Red Cross organizations of the States concerned, with a view to implementing the present resolution.

Trygve Lie forwarded this resolution to the ICRC on 6 December. Under the Statutes of the International Red Cross and in accordance with the internal distribution of tasks, it fell to the ICRC to respond to the UN request. However, its principles forbade it to act without the consent of all the parties, and the resolution had not been adopted unanimously – the Eastern European States concerned had opposed it. At the request of the Hellenic Red Cross, the ICRC nevertheless decided to take up the matter, which came under its traditional mandate, but to do so independently, not pursuant to the resolution. It simply incorporated this task into the activities it had already undertaken, together with the National Red Cross Societies and the authorities concerned, to trace missing persons, facilitate the exchange of family news and reunite dispersed families.

As early as April 1949, the ICRC had broached this question during its meeting in Prague with representatives of the Provisional Democratic Government. Two months later, the partisan radio station broadcast news of captives in response to tracing requests received from the ICRC, prompting the government in Athens to deplore

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144 A/RES/382(V)A.
145 RICR, No 387, March 1951, p. 177.
146 Ibid.
147 Minutes of the working session of the Committee held on 1 March 1951 – ICRC Archives, A PV.
the use of the ICRC’s name for purposes of “political propaganda”. The ICRC had nonetheless received replies to 44 of its requests, 43 of which concerned children.\textsuperscript{148}

In 1951, the ICRC forwarded to the relevant National Societies the names of 148 members of the Greek armed forces that it had received from the Hellenic Red Cross. It also asked the Societies to help identify former Greek soldiers who were not on the lists but who might be living in their countries.\textsuperscript{149}

Of the approximately 3,900 Greek nationals repatriated in 1954, 165 were former members of the military.\textsuperscript{150}

\textbf{Conclusion}

During the Greek Civil War, the ICRC mainly concerned itself with political detainees, a category that it considered a priority within the framework of its traditional activities. However, this choice was also dictated by difficulties within the International Red Cross that hindered the delivery of relief to civilians and by the ICRC’s own lack of resources. Both factors contributed to the organization’s decision to limit its aid to Greek refugees – a term that at the time referred to internally displaced persons.

Although its first efforts to assist political detainees date back to late 1946, the ICRC did not start visiting places of detention – with two exceptions – until June 1948 and it did not extend its visits to all prisons and internment camps or broaden their scope until 1950, by which time the hostilities in Greece had ended. The visits, which focused mainly on the material conditions of detention and care for sick detainees, led to some improvements, but the relief supplied by the ICRC fell far short of needs. Moreover, ICRC delegates brought no influence to bear on the treatment received by detainees, who continued to be caught up in political strife inside the camps and prisons. The delegates considered that re-education measures taken by the detaining authorities were a matter of internal policy and therefore fell outside their mandate. The ICRC in Geneva made no move to contradict this position.\textsuperscript{151}

There were several reasons for this.

\textsuperscript{148} Note of 8 June 1949 from A. Lambert to the ICRC and notes of 16 and 26 June 1949 from the ICRC to A. Lambert – ICRC Archives, B G 3/27cX and B G 44/53c-244.

\textsuperscript{149} Report of the International Committee of the Red Cross on its Relations with the United Nations Organization, Document No. 12, 18th International Conference of the Red Cross (Toronto, July–August 1952) – ICRC Library and Research Service.

\textsuperscript{150} ICRC Annual Report 1955, “Comparative Table of the Re-Uniting of Families from 1951 to 1955”, p. 36. One can assume that the “former military personnel” whose names appear in the table without explanation were repatriated in 1954 during operations in which the ICRC did not take part. See p. 577 above.

\textsuperscript{151} Regarding re-education measures and the pressure exerted on political detainees and exiles to repent as a condition for their release, see Polymeris Voglis, \textit{op. cit.}
First of all, the ICRC lacked a legal foundation for its work, namely an international convention. That is why it sought to base its action not only on its Statutes and those of the International Red Cross but also on the preparatory documents for the 1949 Geneva Conventions. This shortcoming was compounded by the insistence of the government in Athens on maintaining the illusion that there was no civil war and hence no captured combatants or political detainees. Moreover, the government had limited the ICRC’s activities to supplying relief and had denied the organization any control over its distribution.

Secondly, the ICRC delegate in Athens, Adrien Lambert, was hampered by his personal and business ties to Greece and his lack of experience in carrying out prison visits. This meant that he sometimes failed to show the impartiality expected of an ICRC delegate, he hemmed and hawed for fear of offending the government and he favoured relief for civilians over visits to places of detention. His reports reflect a certain naivety vis-à-vis the detaining authorities and even a degree of indulgence towards the re-education measures used to coerce detainees into adopting the “right” attitude.

One may wonder why the ICRC, which not only disagreed with Lambert over operational priorities but also recognized his inadequacy in detention-related matters and endured criticism over his lack of objectivity, did not simply replace him. This can be explained by Lambert’s good relations with influential Greeks, his understanding of the political context and his sensitivity to the suffering of the Greek people – all of which helped the ICRC to maintain its presence in the country. Lambert also managed at times to defend the ICRC’s independence, for instance during the tug-of-war between the organization and the president of the Hellenic Red Cross over customs duties imposed on relief supplies. More than once the ICRC considered replacing Lambert or sending another delegate to join him, but either its attempts to do so were aborted or it reversed course. While Lambert was hedging his bets with the government in Athens, the ICRC was dithering for fear of offending the authorities and jeopardizing its presence in Greece.

For the same reason, the ICRC refrained from trying to renegotiate the grounds for its activities in Greece with the government in Athens. It preferred to adopt a pragmatic approach that enabled it, although belatedly, to step up its prison visits, broaden their scope and pursue them until 1963. In fact, the ICRC’s activities for political detainees in Greece were to set an important precedent for the organization’s future efforts to extend its action and develop policies designed to protect detainees.  

The ICRC was never able to visit members of the Greek armed forces captured by the partisans. In this regard as well, the position of the government in Athens, which excluded any possibility of reciprocity, and the personal circumstances of its delegate, whose impartiality was called into question by the partisans, hindered the ICRC’s work and prevented it from fulfilling its role as a neutral intermediary between the parties to the conflict. Its relations with General Markos and with the Provisional

152 See pp. 279 ff. above.
Democratic Government began and ended with exchanges of information, and the ICRC’s efforts to enter partisan-held areas from inside the country led nowhere. By the time the ICRC contacted representatives of the Provisional Government outside the country, the game was already up from a military point of view, and it was too late to visit those areas.

As for the repatriation of Greek children, the difficulties surrounding this issue were mainly a reflection of the rising Cold-War antagonisms and the burgeoning divisions within the communist world itself. With all due credit to the ICRC and the League for their many attempts to resolve the issue, especially by tackling its practical aspects, the outcome was virtually a foregone conclusion given developments on the international political scene.

Political detainees in Spain

During the Spanish Civil War, which lasted from July 1936 to March 1939, the ICRC worked on both sides of the front lines. In September 1939, several months after the guns had fallen silent, the organization closed its delegation in Madrid.

In May 1943, as the Second World War raged on, the ICRC designated Eric Arbenz, who had served as a delegate in Spain during the civil war, as its representative in Madrid.

Limited and pragmatic approach

At the request of several Spanish organizations exiled in France, the ICRC agreed in September 1945 to look into the fate of Spanish republicans detained in their country whose lives were reportedly in danger. The organization asked both its delegate in Madrid and the Spanish Red Cross to obtain information on them.

Still without news of the detainees three months later, the ICRC sent David de Traz, head of its Prisoners of War, Internees and Civilians Division, to Madrid to discuss the matter with the authorities and the Spanish Red Cross. He took advantage of the opportunity to deliver a memorandum requesting permission for the ICRC to visit all prisons where republicans were detained, to deliver relief parcels and to collect and forward family messages. The initial response of the Spanish authorities, who

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154 E. Arbenz, whose wife was of Spanish extraction, moved to Spain for personal reasons in 1940. He worked for the Swiss Trade and Development Bureau in Madrid, eventually becoming its director from 1943 to 1946, and then for the Swiss Legation in Madrid until 1948.
argued that the civil war had ended and that the situation in the country was back to normal, was discouraging. Yet in January 1946, the director-general of prisons, Francisco Aylagas, informed Arbenz that he was prepared to accede to all three of the ICRC’s requests.155

During the first half of 1946, Arbenz visited half a dozen places of detention where hundreds of convicted Spanish republicans were being held. He was allowed to speak in private with the detainees of his choice, except at Alcalá de Henares, a prison in the province of Madrid reserved exclusively for political detainees. In that prison, which held 800 inmates awaiting trial, he was accompanied by a guard at all times.156

155 Minutes of the meeting of the Delegations Commission held on 16 January 1946. Note of 18 February 1946 from E. de Bondeli to E. Gloor, member of the Committee. Addendum to a note on Spanish detainees held in Spain, unsigned draft of 25 March 1953 – ICRC Archives, A PV, B G 44/45-76 and B AG 225 069-001. *Rapport complémentaire sur l’activité du Comité international de la Croix-Rouge relative à la guerre civile en Espagne (du 1er juin 1938 au 31 août 1939) et à ses suites*. Document No. 6 submitted by the ICRC to the 17th International Conference of the Red Cross (Stockholm, August 1948) – ICRC Library.

156 Report by E. Arbenz on his visit to the central prison of Alcalá de Henares, dated 2 June 1946. Minutes of the meeting of the Delegations Commission held on 25 June 1946 – ICRC Archives, B G 44/45-76 and A PV. From its very first prison visits, which took place during the First World War, the ICRC gave the utmost importance to conducting private interviews with detainees (see François Bugnion, *op. cit.*, p. 94). This practice, since codified in the Geneva Conventions, is one of the conditions posed by the ICRC for its visits to political detainees.
More than a year went by before Arbenz carried out two more visits, in August and November 1947. Between 1946 and 1947, the ICRC obtained information about a number of detainees, such as the length of their sentences, the date of their release or – for those on death row – whether or not their sentences were to be commuted. It also delivered some individual relief parcels.\(^{157}\)

Since the ICRC considered the detention of Spanish as republicans a result of the civil war, its concern for them was, in its view, a logical follow-up to its activities during the conflict. It therefore urged its delegate to step up his activities for these detainees. However, the ease with which Arbenz had obtained permission for his first visits to places of detention proved to be an exception. For each subsequent visit, he had to approach the authorities repeatedly and wait ever longer for permission.

According to Arbenz, this was a consequence of recent visits made by high-profile foreigners, including journalists and diplomats, of which the Spanish authorities had grown weary. According to the authorities, Spain was the only nation subjected to such foreign scrutiny and the only one in which the ICRC and other organizations visited detainees incarcerated in their own countries. The authorities also maintained that the detainees were held for crimes committed after the civil war in order to bring down the regime – not for political crimes connected to the war itself. Arbenz, who had spoken with former detainees, called into question the value of the visits, claiming that the ICRC could provide nothing more than moral support. He believed that the detainees were afraid to openly voice their complaints and preferred simply to receive relief parcels and medicines.\(^{158}\)

Faced with this dilemma, the ICRC decided to close down its delegation in Spain at the end of December 1947, while leaving open the possibility of sending delegates on short-term assignments to the country. As for Arbenz, he continued to work with the Spanish Red Cross on cases of refugees and stateless persons ensuing from the Second World War.

At the end of 1949, at the urgent insistence of the president of the Spanish Red Cross, the Duke of Hernani, the ICRC agreed to reappoint Arbenz as its resident delegate,\(^{159}\) provided he was allowed to visit both foreign refugees interned in Spain and Spanish political detainees. It obtained only partial satisfaction since Arbenz’s visits were in fact restricted to refugees.\(^{160}\) Beginning in 1951, when the International Refugee Organization closed its offices in Madrid and handed over its work to the ICRC, Arbenz’s activities for refugees and stateless persons increased considerably.

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157 Addendum to the note on Spanish detainees held in Spain, op. cit.
158 Note of 10 September 1947 from E. Arbenz to the ICRC. Minutes of the meeting of the Bureau held on 2 October 1947 – ICRC Archives, B G 44/45-75 and A PV. Addendum to the note on Spanish detainees held in Spain, op. cit.
159 Under this status, Arbenz no longer drew a salary but was entitled to an expense account.
160 Minutes of the meetings of the Delegations Commission held on 19 November 1947, 11 February 1948, 20 July 1949 and 5, 12 and 30 October 1949; minutes of the meeting of the Bureau held on 5 February 1948; and minutes of the working session of the Committee held on 28 July and 6 October 1949 – ICRC Archives, A PV.
In June 1953, as it was about to convene the first Commission of Experts for the Examination of the Question of Assistance to Political Detainees, the ICRC again raised the issue of visits to Spanish detainees with its delegate. Arbenz assured headquarters that he could visit any prison in the country as long as the ICRC gave him specific names and addresses culled from the enquiries made by families – not obtained from other organizations.

In August 1955, the ICRC began again to receive requests from families for news of detained relatives, which had ceased coming in after its delegation in Madrid closed down in late 1947. This new influx seems to have been triggered by the release and transfer abroad of a foreign detainee who had been held at Burgos prison and on behalf of whom Arbenz had made numerous appeals. The first requests received by the ICRC concerned Spanish detainees held in Burgos, but enquiries soon followed about detainees in other prisons. Armed with these requests, which fulfilled the conditions set by the Spanish authorities, the ICRC instructed its delegate to resume his visits. From 5 to 20 August, Arbenz thus went to four prisons – in Granada, El Dueso (Santander province), Burgos and Madrid (Carabanchel Alto) – and to a camp at Nanclares de la Oca, near Vitoria. Meanwhile, the authorities continued to claim that Spain held no political detainees.

Between 1956 and 1959, Arbenz visited a number of detainees whose names had been provided to it and whose presence in a place of detention had been reported to ICRC headquarters or to its delegation. In each case, he had to submit a written request for authorization to the director-general of prisons – who was a friend of his. During these visits, which were facilitated by his personal contacts, Arbenz spoke privately with the detainees of his choice and generally had access to all the premises. Instead of submitting a written report to the authorities, as was customary, Arbenz commented on his visits orally to the director of each prison and to the director-general of prisons. There is no indication that the Spanish government was aware of these visits. While this situation was clearly unsatisfactory, Arbenz considered that any official request to broaden the visits would merely jeopardize them. He therefore advised the ICRC to maintain the status quo while striving to increase the frequency of its visits and the number of prisons visited.

The ICRC, which put great store by its visits to political detainees held by totalitarian regimes – and which considered itself a “pioneer” in this regard – was swayed by the arguments of its delegate. In the absence of sufficient legal grounds on which to counter the position of the Spanish government, it decided to maintain its practical approach. In May 1958, seeking nonetheless to develop its activities, it instructed Arbenz to do his utmost and released funds for a relief operation to assist political

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161 See pp. 283 ff. above.
162 Note of 8 June 1953 from P. Gaillard on political detainees in Spain and note of 16 December 1955 from E. de Ribaupierre to R. Gallopin on the same subject – ICRC Archives, B AG 225 069-001.
163 Note of 16 December 1955 from E. de Ribaupierre, op. cit.
164 Minutes of the meeting of the Presidential Council held on 24 April 1958 – ICRC Archives, A PV.
detainees. It confirmed these instructions to Arbenz when he visited ICRC headquarters in December.  

Official authorization to carry out such an operation was, however, withheld by the government. The mere mention, in its 1957 annual report, of its efforts to provide “moral and material encouragement” for several categories of detainees and their families and of the visits it had carried out to “some of these detainees in central or regional prisons” landed the ICRC in hot water. The delegate in charge of the matter at headquarters noted the paradox of reporting on activities for political detainees that, first of all, amounted to very little and, secondly, were supposedly unknown to the government.  

In April 1959, given Arbenz’s reluctance to press on, the ICRC became more aware than ever of the difficulty of relying on a voluntary delegate to undertake certain activities in a country where he or she had settled and built up professional and personal ties, often including marriage to a national. The Presidential Council concluded that it would be more advisable, in the long run, to send a team from Geneva to the country in question, on an ad hoc basis, especially to carry out visits to political detainees and to places of detention in general.  

The problem reared its head again in late 1959 and early 1960 following campaigns launched in Spain and France, some 20 years after the end of the civil war, to assist Spanish political detainees. The ICRC, having received numerous petitions and requests urging it to intervene on behalf of the detainees, acknowledged the shortcomings of its action. Its visits to places of detention in Spain, far from being systematic, had always been carried out on a sporadic and informal basis. It also acknowledged the discrepancy between its delegate’s claims that detainees enjoyed satisfactory conditions and required no assistance, on the one hand, and the proliferation of requests urging it to come to the aid of the detainees and to press for an amnesty, on the other. Yet the ICRC was unable to fully satisfy these requests as its action consisted only in monitoring the conditions of detention and providing material assistance. It also refrained from commenting on the sentences handed down to detainees, fearing that it might be accused of interfering in the judicial process, and it was unable to reach a consensus on whether or not to take the matter up again with the Spanish government in an attempt to obtain official authorization.

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168 Minutes of the meeting of the Presidential Council held on 24 April 1959 – ICRC Archives, A PV.

169 At the time, members of the opposition estimated their numbers at around 5,000.

170 ICRC Archives, B AG 225 069-002.
to visit the detainees. It was, however, unreservedly in favour of extricating itself from an ambiguous situation in which, by the very presence of its delegate in Madrid, it appeared to be acting – or at least to be in a position to act – on behalf of political detainees. Once again, it went back to the drawing board in the hope of finding a way to improve its ability to come to the aid of the detainees or, at the very least, to deliver individual parcels. It also decided, in early 1960, to examine the question with the Spanish Red Cross and to inform the people and organizations that had appealed to it of the limits placed on what it could do.\footnote{Note of 13 November 1959 from T. Mathez to R. Gallopin and its annexes. Letters of 5 February and 8 April 1960 from the ICRC president, Léopold Boissier, to the president of the Spanish Red Cross, Antonio María de Oriol y Urquijo, and to the Duke of Hernani, member of the National Society’s Supreme Assembly, respectively. Minutes of the meeting of 2 May 1960 between the president of the ICRC and the president of the Spanish Red Cross. Minutes of the meetings of the Presidential Council held on 21 and 28 January 1960 – AICFC, B AG 225 069-002 and A PV.}

Despite having received instructions to visit seven places of detention, Arbenz delayed any action until 1961.\footnote{ICRC Archives, B AG 225 069-006.} Moreover, either these prisons housed only ordinary criminals or, where they housed detainees indicted or sentenced for breaches of State security, Arbenz failed to hold private interviews with them.\footnote{Report by P. Gaillard on his trip to Madrid in May 1961. Note of 22 September 1961 from T. Mathez to the Directorate and note of 27 September 1961 from T. Mathez to E. Arbenz. Note of 13 November 1961 from E. Arbenz to the ICRC – ICRC Archives, B AG 252 069-001 and B AG 225 069-007.}

In February 1962, having decided that Arbenz’s activities no longer met its expectations, the ICRC parted ways with him, on the pretext of his age,\footnote{Although he was allowed to retain the title of “honorary delegate”.} and closed its delegation in Madrid. Learning of this, the Duke of Hernani remonstrated that Arbenz was irreplaceable: “What Mr Arbenz achieved thanks to the friendly and confidence-building relations he established wherever he went, no successor will ever be a match (...) whether in visiting prisons, establishing the facts or opening doors (which others have done rather imprudently and not without consequences).”\footnote{Minutes of the closed meeting of the Presidential Council held on 16 November 1961 – A PV. Letter of 20 November 1961 from the president of the ICRC to E. Arbenz and letter of 18 January 1962 from the Duke of Hernani to the ICRC – ICRC Archives, B AG 252 069-001.}

**Conclusion**

In many ways, the ICRC’s activities for political detainees in Spain were similar to those carried out by the organization during the civil war in Greece. In both cases, the ICRC was dealing with a government that denied the existence of political detainees and drew no distinction between persons arrested for breaches of State security and ordinary criminals. This explains why the ICRC avoided making official...
representations to the authorities and chose instead to work through the National Red Cross Societies. In both cases, it also relied on resident delegates with long personal and professional experience in the country and thus able to facilitate informal contacts with the authorities. At the same time, the delegates it chose lacked the independence required to act with impartiality. Although well aware of the problem, the ICRC allowed these delegates to remain in place for years, fearing a backlash against its activities at a time when it was seeking to set precedents for its efforts to assist political detainees. By opting for this course, however, it ran the risk of providing an alibi for the detaining authorities or, at the very least and especially in Spain, giving the false impression that it was aiding people for whom it could in fact do very little.
CHAPTER 15
Asia

Still overwhelmed by the aftermath of the Second World War, especially in Europe, the ICRC was slow to realize the implications of the civil war raging in China and the important role that the organization stood to play as a neutral intermediary in the country.

As for the Karen insurrection in Burma, it was at the urging of people outside the country that the ICRC stepped in to provide assistance.

Civil war in China

In 1946, at the end of the Japanese occupation and after the failed attempt at mediation by the United States, civil war resumed in China. Initially, the military advantage was held by Chiang Kai-shek’s nationalist troops, who captured the communist capital Yan’an, in Shaanxi province, in March 1947.

The situation reversed itself in 1948, beginning with the recapture of Yan’an by communist forces in April. After conquering Manchuria, the communists occupied Beijing and Tianjin in January 1949, crossed the Yangtze River in April and captured Nanjing\(^1\) later that month, Shanghai in May and Guangzhou in October. The People’s Republic of China was proclaimed on 1 October 1949, with Mao Zedong as its president and Zhou Enlai as its premier and minister of foreign affairs. Beijing again became the capital of the country.

By the end of 1949, Mao controlled all of continental China, with the nationalist government having been forced to retreat to the island of Taiwan.\(^2\)

Vacillation

At the end of the Second World War, plagued by financial woes, the ICRC sought to reduce its staff wherever possible. As a result, it closed its delegation in Chongqing, in Sichuan province, where the nationalists had their capital. The organization kept only

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\(^1\) Capital of the nationalist government from 1946 to 1949. In February 1949, the nationalists moved their headquarters to Guangzhou, and from mid-October to the end of November 1949, to Chongqing, which had been their capital during the Second World War.

\(^2\) Also known as Formosa.
one representative, Edouard Egle, in Shanghai. His main task was to assist Japanese prisoners of war who had not yet been repatriated.

In 1946, the ICRC nevertheless realized that it would be useful to have a representative on both sides of the conflict in China should the civil war escalate. As a first step, it sought further information on the situation inside the country. This did not, however, lead to any immediate decision as the organization hesitated between opening a permanent delegation – but where? – and sending a team to the country on a temporary basis. It also wavered between appointing a Swiss national already on the spot, like Egle, as a second representative or sending along an experienced delegate.³

Almost a year later, with the question still under discussion, Max Huber, honorary president of the ICRC, stressed the importance of maintaining ties with China, which it had failed to do with the USSR.⁴

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³ Minutes of the meetings of the Delegations Commission held on 24 July, 7 August, 4 and 18 September and 11 December 1946, and on 8 and 22 January 1947, and minutes of the meetings of the Bureau held on 5 December 1946, and on 23 and 30 January and 6 and 13 March 1947 – ICRC Archives, A PV.

⁴ Summary of the meeting of the Delegations Commission held on 30 May 1947 – ICRC Archives, A PV.
In view of the high cost of living in China, the ICRC nonetheless decided against reopening a permanent delegation in the country. In mid-1947, it opted instead to send a team to Nanjing for two months in order to establish contacts with the authorities and the Chinese Red Cross and to spread knowledge of the Red Cross principles and ideals. However, on the advice of its delegate based in Shanghai, who was back in Switzerland for a brief visit, it changed course yet again. Egle felt that such a step was bound to fail, given the political climate, as it would not garner the support of the nationalist government. However, he advised the ICRC to keep its foot in the door by maintaining its delegation in Shanghai, which he would continue to head. The ICRC decided to follow Egle’s advice until the time seemed ripe for further action.

In mid-February 1948, with military operations escalating, Egle investigated whether combatants on either side of the front lines were entitled to protection under the Geneva Conventions and, if so, how the ICRC could assist them. He also examined the possibility of setting up a service to trace missing persons and to forward family messages. He was aware, however, of the obstacles he faced, especially in obtaining authorization from the nationalist government, which viewed the communists not as combatants but as rebels and “bandits.”

A few months later, in May 1948, the ICRC held a meeting in Geneva with the former Swiss ambassador to China, now reassigned to London, who advised it to send an exploratory team to China before undertaking any action. The team’s task would be to develop a network of key official and informal contacts in order to gather information and assess the possibilities for ICRC action in different areas of the country. Chiang’s army was reportedly avoiding battle while building up its strength for an assault on Nanjing: entire divisions were surrendering to the communists, who did not hold prisoners but sent captured soldiers back to their families. According to the ambassador, when communist forces seized an area, they did not go after the “little people” but divested large property-owners of their land, which they redistributed to their supporters. In return, the supporters “lent” their sons to the communists. If an ICRC delegate were to learn of what was going on, the nationalist government would lose face, a situation that it wished at all costs to avoid.

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5 Southern China, under nationalist control, was in the throes of a major financial crisis marked by a high rate of inflation.

6 Minutes of the meeting of the Bureau held on 26 June 1947. Summary of the meeting of the Delegations Commission held on 9 July 1947 – ICRC Archives, A PV.


8 Letters of 16 February and 5 April 1948 from E. Egle to the ICRC. Letter of 8 July 1948 from R. Gallopin to E. Egle – ICRC Archives, B G 17/34 XI2. Summary of the meeting of the Delegations Commission held on 3 March 1948 and minutes of the plenary meeting of the Committee held on 21 April 1948 – ICRC Archives, A PV.

9 Minutes of the meeting with Ambassador de Torrenté on 12 May 1948 – ICRC Archives, A CL 16.01.01.
Consulted on the matter, Egle supported the ambassador’s suggestion while warning the ICRC that any delegate seeking to develop ties with nationalist officials would have to be based in Nanjing and that the main difficulty would be gaining access to the other side.10

Overwhelmed by more pressing matters – the Arab-Israeli War was raging – the ICRC put the idea of an exploratory team on the back burner. It resurfaced, however, in late November and early December 1948, when the ICRC was approached by the government in Nanjing and the Chinese Red Cross following the airlift of thousands of wounded soldiers to the city. At the time, a private company11 in the city had offered to make its premises available to serve as a hospital, provided they came under ICRC protection.12

In addition to sending an exploratory team to China, the ICRC decided to dispatch, in keeping with its principle of impartiality, two medical teams, one to the nationalist capital and the other to a location to be agreed on with the communists. At this point, however, the private company withdrew its offer and the plan fell through.13

**Exploratory team sent to China**

At the end of December 1948, the ICRC sent its former head of delegation in London, Frederic Bieri, on an exploratory trip to Hong Kong where it believed official representatives of the communist government were present. Bieri carried a message from the ICRC president, Paul Ruegger, informing the two parties of his assignment, namely to examine the best way for the ICRC to carry out its humanitarian activities, in accordance with the principle of strict neutrality.

In Hong Kong, Bieri had instructions to establish contact with the two parties, whose respective governments he was to consider of equal stature. He was to begin by approaching Mao’s representative. Assuming that the ICRC’s representations were greeted favourably by both sides, Bieri would go first to the communist-controlled north since the ICRC already had a delegate in the southern city of Shanghai. If he could not go north, he would still go to Nanjing but would not stay long since Egle was to remain the sole delegate accredited to the nationalist government. If all went well, the ICRC would open two delegations.14

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11 International Export Co., Ltd.
12 Letter of 30 November 1948 and its annexes from E. Egle to the ICRC and minutes of the meeting of the Bureau held on 3 December 1948 – ICRC Archives, B G 17/34 XI2 and A PV.
13 Note of 30 November 1948 and its annexes, and note of 8 December 1948 from E. Egle to the ICRC. Minutes of the meetings of the Bureau held on 3, 9, 16 and 23 December 1948 – ICRC Archives, B G 17/34 XI2 and A PV.
14 Note of 10 December 1948 from R. Gallopin to E. Egle. Instructions of 28 December 1948 from R. Gallopin to F. Bieri and their annex. Minutes of the meeting of the Bureau held on 30 December 1948 – ICRC Archives, B G 17/34 XI2, B G 3/84, ex 254(2), and A PV.
Initial representations in Hong Kong

Bieri arrived in Hong Kong on 7 January 1949. A week later, having found no official representative of Mao’s government in the city, he handed over the ICRC president’s message to an unofficial representative. The latter, who was director of the communist New China News Agency in Hong Kong, agreed to convey the message to Beijing while warning that it would take at least six weeks to receive a reply. He was personally optimistic about the possibility of cooperation between his government and the ICRC, especially in the medical field. He also agreed to ask the communists to designate a person with whom Bieri could meet and to set a place for the meeting.\(^{15}\)

Bieri contacted the Ministry of Foreign Affairs of the nationalist government in Hong Kong on 10 February, explaining in a letter his assignment and asking to see someone appointed by the government to discuss the matter.\(^{16}\)

Visit to Guangzhou

The nationalist government, fleeing the advance of communist forces, soon transferred its headquarters from Nanjing to Guangzhou. Summoned there on 19 March 1949, Bieri met with a representative of the Ministry of Foreign Affairs and stressed the purely apolitical and humanitarian nature of the ICRC’s activities. He explained that to accept assistance from the ICRC did not necessarily imply recognition of a state of war as defined by the 1929 Geneva Conventions, with the ensuing consequences for the legal status of the adverse party.\(^{17}\) The nationalist representative, for his part, reiterated the fact that Chiang Kai-shek considered the communists as “bandits” – a position that, he said, mirrored the one taken by the Greek government in similar circumstances.\(^{18}\) In view of the political and military changes that had since taken place,\(^{19}\) however, he thought that the new cabinet might possibly reach a different conclusion once it had reviewed the situation in the light of the ICRC’s offer.\(^{20}\)

Bieri took advantage of the start of peace talks in Beijing to send Mao a telegram on 31 March 1949 confirming the terms of his meeting with the director of the New

\(^{15}\) Note of 17 January 1949 from F. Bieri to the ICRC – ICRC Archives, B G 3/84, ex 254(1).

\(^{16}\) Note of 12 February 1949 from F. Bieri to the ICRC and its annex. Minutes of the meeting of the Delegations Commission held on 2 March 1949 – ICRC Archives, B G 3/84, ex 254(1), and A PV.

\(^{17}\) Art. 3 common to the four Geneva Conventions of 12 August 1949, which is applicable to non-international armed conflict, expressly confirms, in its final paragraph, that the application of the article “shall not affect the legal status of the Parties to the conflict”.

\(^{18}\) See p. 550 above.

\(^{19}\) Chiang had resigned as president of the Republic in late January 1949, delegating his powers to the vice-president, Li Zongren. He remained head of the Guomindang, under whose control most high-level officials operated, and, unofficially, head of the armed forces.

China News Agency. After waiting in vain for a reply, Bieri wondered whether his failure to establish contact with the communist leader was due to the recent resumption of mail censorship by the nationalists.21

On 16 April, Bieri received a letter from the nationalist government informing him that it wished to postpone any decision until the peace talks came to a conclusion. The government nevertheless expressed the wish that, in the meantime, the ICRC would respond favourably to the request made by the Chinese Red Cross for medical relief and continue to give the National Society moral support.

Shortly thereafter, the peace talks broke down and hostilities resumed. Bieri reiterated the ICRC’s offer of services and asked the nationalist government to reconsider its position.22 This time, he received no reply at all.

Medical assistance

In response to the request made by the Chinese Red Cross, the ICRC allocated 50,000 Swiss francs to the purchase of medical relief for China, half of which was to be distributed in the north and half in the south.23

These funds were used to set up and run, under the responsibility of the Guangzhou branch of the Chinese Red Cross, an infirmary for deprived refugee schoolchildren and students. Inaugurated in early August 1949, the infirmary, which housed some 30 in-patients and treated about 50 out-patients a day, remained in operation until 14 October, when communist forces overran Guangzhou.24

The other half of the funds went towards the purchase of medicines for the treatment of war victims, which were distributed under the supervision of an ICRC resident delegate based in Tianjin25 to four hospitals in the city and, with the help of a priest, to five facilities in Beijing. A donation was also made to a relief association in Shanghai.

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23 Minutes of the meeting of the Presidential Council held on 12 May 1949 – ICRC Archives, A PV.

24 Notes of 12 June, 26 July, 21 and 29 August and 20 October 1949 from F. Bieri to the ICRC – ICRC Archives, B G 003 (84-1-8).

25 Note of 26 September 1949 by R. Merz, ICRC resident delegate in Tianjin, appended to the note of 29 October 1949 from F. Bieri to the ICRC – ICRC Archives, B G 3 84 (1/8). A resident delegate (correspondant, in French) was a Swiss national living and working abroad – often in business – and representing the ICRC on a part-time, voluntary basis.
Shanghai appeal

In early May 1949, Bieri seized one of the last opportunities to travel to Shanghai to meet with Egle and the secretary-general of the Chinese Red Cross at the National Society’s headquarters. He arrived as communist forces were closing in on the city of six million and as the nationalist government was loudly proclaiming its intention to defend it. The city’s mayor, the secretary-general of the Chinese Red Cross and other influential citizens urged the delegates to appeal to both parties to declare Shanghai an “open city” or to designate it as a safety zone.\(^{26}\) If the parties agreed, outside relief could be brought in for those most in need and distributed by a neutral organization, such as the ICRC.

The secretary-general of the Chinese Red Cross, when asked to transfer the National Society’s headquarters to Guangzhou, refused. Although he had at one time been Chiang Kai-shek’s personal physician, he preferred to remain in Shanghai so that, he said, the Chinese Red Cross could be present on both sides of the conflict.\(^{27}\)

After consulting the ICRC, Bieri handed a message both to his communist contact in Hong Kong, on 12 May, and to the nationalist Ministry of Foreign Affairs in Guangzhou, on 13 May. The message conveyed the ICRC’s concern for the residents of Shanghai and offered the organization’s services to come to their aid. If the two parties accepted the ICRC’s offer, this would imply that they agreed to respect the Red Cross emblem and lend their support to the delegates. By now, there was no more talk of an “open city” or a safety zone. The ICRC feared that to press for such a status, even for strictly humanitarian reasons, would be seen as a political move by the parties. Moreover, from a purely pragmatic point of view, the ICRC doubted its ability to protect and run a city like Shanghai.\(^{28}\)

On 14 May, the ICRC released the contents of its message to the press for the twofold purpose of informing communist forces – perhaps more quickly than through its unofficial contact in Hong Kong – and to let the people of Shanghai know that at least someone was concerned about their fate.\(^{29}\)

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26 At the end of 1937, during the Sino-Japanese War, a French missionary, Father Jacquinot de Besange, had taken the initiative of establishing a safety zone in Shanghai, which provided refuge for the civilian population and was respected by both sides. See François Bugnion, The International Committee of the Red Cross and the Protection of War Victims, ICRC/Macmillan, Geneva/Oxford, 2003, pp. 749–750.
27 Telegram of 8 May and note of 9 May 1949 by F. Bieri on discussions held in Shanghai. Note of 17 May 1949 from F. Bieri to the ICRC – ICRC Archives, B G 3/84, ex 254(1) and (2).
28 The ICRC had recent experience with safety zones in Jerusalem, see pp. 415 ff., 420 and 440 ff. above.
29 Telegram of 10 May 1949 from the ICRC to F. Bieri and telegram of 13 May 1949 from F. Bieri to the ICRC. Note of 17 May 1949 from F. Bieri, op. cit. – ICRC Archives, B G 3/84, ex 254 (1) and (2).
On 19 May, Bieri received a reply from the Ministry of Foreign Affairs clearly intended to buy time.\(^\text{30}\) Six days later, the problem resolved itself with the peaceful occupation of the city by communist forces after the unexpected retreat of the nationalists.

**Reassessment**

By the second half of 1949, apart from a small amount of medical aid being delivered, the ICRC’s action was at a standstill. Bieri was therefore asked to examine how the organization could expand its activities in China.\(^\text{31}\)

In his reply of 22 October 1949, Bieri informed the ICRC that he had chosen to go through government channels rather than approach Chiang Kai-shek directly.\(^\text{32}\) While it may have been more expeditious to contact the generalissimo in person, he had feared offending the government in place. Moreover, Chiang had always maintained that the communists were “bandits”, whereas there seemed a small chance that the nationalists who had succeeded him might adopt a more conciliatory position – at least during the peace talks under way in Beijing in April 1949. This was, however, not to be. Meanwhile, there was ongoing speculation about how long the nationalists would remain in power. Estimates ranged from one to six months. In any event, the nationalists were convinced that they could hold on to Taiwan indefinitely.

As for the communist side, Bieri sent a telegram to Premier Zhou Enlai on 2 October 1949, the day after the People’s Republic of China was proclaimed. In it, he set out his wish to discuss the ICRC’s work with the communist leadership in Beijing or elsewhere. Some time before, he had also asked for the support of his communist contact in Hong Kong, who had represented the All China Association of Journalists at the Political Consultative Conference held in Beijing from 21 to 29 September 1949 to lay the foundations for the People’s Republic of China. Bieri received no answer to his telegram addressed to Zhou, no doubt – according to his note on the subject – because of the reorganization under way in Beijing. On the other hand, he wondered whether he was considered by the communists *persona non grata* in view of his relations with the nationalist government.

According to Bieri, the ICRC needed to contact Beijing at all costs, even if it took time. To that end, he considered it extremely important to help the Chinese Red Cross – which had little outreach across the country – to expand its work or even to undertake a joint relief operation in order to demonstrate the operational capacity of the Red Cross.\(^\text{33}\)

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31 Minutes of the meeting of the Delegations Commission held on 10 August 1949, minutes of the working session of the Committee held on 11 August 1949 and minutes of the meeting of the Presidential Council held on 18 August 1949. Note of 18 August 1949 from the ICRC to F. Bieri – ICRC Archives, B G 3/84, ex 254 (2) and A PV.

32 See footnote 19 above.

33 Strictly confidential note of 22 October 1949, *op.cit.* and separate note of the same date from F. Bieri to the ICRC – ICRC Archives, B G 3/84, ex 254 (1).
End of the Chinese Civil War to outbreak of the Korean War

On 26 October 1949, ICRC headquarters sent a telegram to Zhou Enlai asking him to receive its delegate, but there was no reply. At the end of December, however, the Chinese Red Cross informed Egle that the Chinese Ministry of Foreign Affairs had asked to see a copy of the Geneva Conventions and of the Statutes of the International Red Cross.

By February 1950, with one of the main purposes of Bieri’s presence in China – to act as a neutral intermediary between the parties to the conflict – having fallen by the wayside after the nationalist government’s retreat to Taiwan, the ICRC was reconsidering whether or not to keep its delegate in Hong Kong. On the basis of Beijing’s request to the Chinese Red Cross, the ICRC deemed the time ripe for Bieri to ask again for a meeting with the government in Beijing for the threefold purpose of providing it with the requested information, exploring possibilities for cooperation – especially in the field of relief – and offering support for the National Society. Having received a request from the United States to trace two airmen who had gone missing in China, it also wanted its delegate to broach that subject with Beijing.

Informed of this, Bieri did not hide his concern over the consequences, for his bid to meet with the Chinese authorities, of intervening on behalf of the American airmen. Because of this, he decided to approach that particular issue unofficially through his communist contact in Hong Kong. For the third time, on 21 February, he sent a telegram to the Chinese government asking for a meeting to discuss questions of common concern regarding Red Cross activities.

On 7 March, Egle was summoned to the Foreign Affairs Office in Shanghai, which sought to obtain information on the International Red Cross, on the activities of the ICRC in China during the Sino-Japanese War (1937–1939), the Second World War and the Civil War, and on the ICRC’s financing and leaders.

Shortly thereafter, the secretary-general of the Chinese Red Cross travelled to Beijing for talks with the Ministry of Foreign Affairs. He seized the opportunity to stress the importance of meeting with Bieri. The Ministry suggested that Bieri send a new request, following which he would probably be authorized to visit Beijing.

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34 Telegram of 26 October 1949 from the ICRC to Zhou Enlai – ICRC Archives, B G 3/84, ex 254(2).
35 Note of 8 May 1950 by E. de Weck on China, op. cit.
36 Minutes of the meeting of the Delegations Commission held on 8 February 1949 and minutes of the meeting of the Presidential Council held on 9 February 1950 – ICRC Archives, A PV. Telegram of 9 February 1950 from the ICRC to F. Bieri – ICRC Archives, A CL 16.01.03.
37 Note of 12 February 1950, and note of 22 February 1950 and its annexes, from F. Bieri to the ICRC. Minutes of the meeting of the Presidential Council held on 24 February 1950 – ICRC Archives, B G 3/84, ex 254(1) and A PV.
38 Note of 8 March 1950 from E. Egle to F. Bieri – ICRC Archives, B G 3 84 (1-8). In October 1949, the secretary-general of the Chinese Red Cross in Shanghai had already informed Egle that the presence of lords, princes and other royalty at the helm of many National Red Cross Societies had made a poor impression on certain members of the new regime.
On 6 May, Bieri penned a long and detailed letter to the Ministry, taking care to have it translated into Mandarin.\(^{39}\)

There matters stood when the Korean War broke out on 25 June 1950. The ICRC asked Bieri to travel to South Korea via Japan immediately, which he did on 30 June.\(^{40}\) As for Egle, he departed from Shanghai in September 1950 for private reasons, leaving the ICRC without any delegate at all in China.

**Conclusion**

After prematurely closing its delegation in China at the end of the Second World War, the ICRC hesitated until late 1948 before sending an exploratory team to the country and offering its services to the two parties for the purpose of assisting victims of the civil war. Although its delegate succeeded, after several weeks, in meeting with the nationalist government, the latter merely stalled for time. As for the communist government, it failed to respond to the overtures made by the ICRC. The organization was consequently unable to conduct any activities during the civil war in China other than to provide a very small amount of medical aid.

According to Marcel Junod,\(^{41}\) who was in China at the time working for the United Nations Children’s Fund (UNICEF), Bieri’s assignment at the end of 1948 could be considered as either premature or belated.\(^{42}\) In fact, Bieri was asked to work in a situation so chaotic that it was impossible to predict developments day by day, let alone week by week. As pointed out by Egle, the ICRC delegate in Shanghai, the transfer of the nationalist government from Nanjing to Guangzhou, the secrecy surrounding communist headquarters, the prevailing confusion and, lastly, the fact that the authorities had more pressing concerns to deal with than the Red Cross did little to facilitate Bieri’s task.\(^{43}\)

With hindsight, it seems that the ICRC arrived too late – some two and a half years having elapsed between the moment it became aware of the civil war in China and its decision to send an exploratory team to the spot. By that time, the die was cast.

Why did it take so long?

In the years immediately following the Second World War, the ICRC was so overwhelmed by the aftermath of the conflict that its attention was trained mainly on


\(^{40}\) Minutes of the meeting of the Commission for External Activities held on 28 June 1950 and note of the same date from F. Bieri to the ICRC – ICRC Archives, A PV and B G 3/84, ex 254(1). See p. 483 above.

\(^{41}\) Former ICRC delegate in Ethiopia and Spain and then in several countries during the Second World War, Junod visited Hiroshima soon after the atomic bomb was dropped on the city. In 1948, he was working for UNICEF in China. He was also a member of the Committee from 1952 to 1961 and vice-president of the ICRC from 1959 to 1960.

\(^{42}\) Note of 13 January 1949 from E. Egle to the ICRC – ICRC Archives, B G 17/34 XI2.

\(^{43}\) Note of 8 February 1949 from E. Egle to the ICRC – ICRC Archives, B G 17/34 XI2.
Europe. Moreover, its efforts to extend its work to conflicts on other continents were hampered by a lack of funds. Another factor was the ICRC’s scant knowledge of the Far East and its slowness to realize – despite a growing awareness of the escalating war in Indochina – the major role that communist China was to play as the Cold War took hold and hotbeds of tension spread across Asia.

A third factor was Beijing’s distrust of any organization that hailed from the West, witness the steps taken by the communist authorities to obtain information about the ICRC and its leaders, through the intermediary of the Chinese Red Cross and Egle in Shanghai, before agreeing to receive a delegate in Beijing. In that regard, the ICRC’s endeavour to trace the missing American airmen was certainly not the best of calling cards.

As a result, the ICRC found itself without a delegate in China when the Korean War broke out. The organization’s inability to play its role as a neutral intermediary during the civil war in China foreshadowed the obstacles it was to face on the communist side during the Korean War.

Karen insurrection in Burma

After a century and a half of British colonization, Burma, which had been occupied by the Japanese during the Second World War, gained its independence on 4 January 1948. The country’s constitution, adopted in 1947, instituted a pseudo-federal system. Officially called the Union of Burma, the newly freed nation encompassed the Burmese plain, three federated states and an autonomous region. While the Burmese made up about 70 per cent of the population, half of the territory was inhabited by many other ethnic groups.

As soon as Burma gained its independence, an insurrection was mounted by the Karen minority, an ethnic group disappointed at not having been granted its own state within the Union. At the time, the Karen in Burma were estimated at about 1.2 million out of a total population of 13 or 14 million. Although most Karen were Buddhist, some 20 per cent were Christian. During the war, the Karen had fought in large numbers alongside the British against the Japanese, while Burmese nationalists had initially supported the Japanese in the hope of accelerating the country’s accession to independence.

In 1948, the Karen declared their independence from Burma unilaterally and took up arms against the government. The territory they sought to control encompassed most of the Irrawaddy Delta and a strip of land along the Thai border between Toungoo and Moulmein. In early 1949, as troops of the Karen National Defence Organization (KNDO) closed in on the capital, Rangoon, hundreds of thousands of people – mostly Burmese but also Indian and Karen – fled. By 1950 the Burmese

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44 In June 1950, the ICRC, which had sought in vain to make contact with Ho Chi Minh’s Democratic Republic of Vietnam, decided to do so through the intermediary of Beijing.

45 In 1989, following a coup d’état the previous year, the country was renamed the Union of Myanmar.
Bassein

Rangoon

Moulmein

Bay of Bengal

Irrawaddy

Delta

Burma

India

China

Laos

Thailand

Rangoon

Toungoo

Bassein

Moulmein

Irrawaddy Delta

Bay of Bengal

45. Burma

PART V. CIVIL WAR, INTERNAL DISTURBANCES, POLITICAL DETAINNEES
army had regained control of the major cities. The establishment of a federated Karen State in 1951, through a constitutional amendment, eased the tension somewhat, but fighting resumed again in the 1960s.

During the Karen insurrection, the Burmese government also faced a communist uprising, involving various factions and sub-factions, along with rebellions by ethnic groups in outlying areas of the country. Alliances between factions and sub-factions were sealed and broken as circumstances changed. Further adding to the chaos was the civil war in China, which spilled over onto Burmese territory in late 1949 as Guomindang troops sought refuge in the north-east. The chaos also led to the spread of banditry.

Requests for intervention

In February 1949, at the height of the Karen offensive, the ICRC received a request to come to the aid of the Karen people from a doctor in Calcutta who had worked in Burma and was familiar with the situation there. At the same time, during informal exchanges of views, the wife of the British High Commissioner in India and the Indian prime minister, Pandit Nehru, informed the ICRC representative in New Delhi that the organization’s services were needed in Burma. \(^{46}\)

As there had been virtually no mention of the Karen insurrection in the Swiss media, the ICRC was taken by surprise and asked its delegate in New Delhi, Dr Roland Marti, to obtain information on the situation. \(^{47}\) Marti offered to travel to Burma for a first-hand look and suggested requesting permission to do so from the Burmese embassy in New Delhi. After some hesitation due to its wish to approach the Karen side at the same time, in accordance with its principle of neutrality, the ICRC encouraged Marti to proceed. \(^{48}\)

First ICRC visit

Having obtained the necessary visa, Marti travelled to Burma on 1 July 1949 and stayed for a week. \(^{49}\) While there, he held meetings with the Burmese Red Cross \(^{50}\) and the country’s government, including Prime Minister Thakin Nu, during which he

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46 Letter of 16 February 1949 from Dr S.G. Solovovo to the ICRC. Note of 19 February 1949 from R. Marti to the ICRC – ICRC Archives, B SG 7/24 and B G 3/27d. Minutes of the meeting of the Delegations Commission held on 2 March 1949 – ICRC Archives, A PV.

47 Note of 28 February 1949 from the ICRC to R. Marti – ICRC Archives, B SG 7/24.

48 Notes of 25 and 30 March, 5 April and 3 June 1949 from R. Marti to the ICRC and note of 3 June 1949 from the ICRC to R. Marti – ICRC Archives, B G 3/27d. Note of 14 June 1949 from E. de Bondeli to President Ruegger – ICRC Archives B G 17/24. Minutes of the working meetings of the Committee held on 31 March and 9 and 30 June 1949 and minutes of the meetings of the Delegations Commission held on 8 and 26 June 1949 – ICRC Archives, A PV.

49 Note of 26 June 1949 from R. Marti to the ICRC – ICRC Archives, B G 3/27d.

50 The Burmese Red Cross was recognized by the ICRC on 20 April 1939, two years after Burma broke away from British-ruled India.
explained the ICRC's two main aims: to ensure that prisoners captured in the conflict were treated, on both sides, in conformity with the Geneva Conventions – to which Burma was not a party – and to assess the needs of conflict victims in order to come to their aid. The ICRC was subsequently authorized to visit Karen prisoners in government hands and camps for displaced persons.51

Some 2,000 Karen prisoners had been captured two months earlier during the fall of Insein, a town about 20 kilometres north of Rangoon. Apart from ten of their leaders, all the captives were being held with their families in five large blocks of the central prison, which, according to Marti, resembled a refugee camp or a sort of caravanserai more than a prison. They seemed to be well treated and were awaiting their return home as soon as circumstances permitted. The ten leaders were housed in an annexe to the prison, and their conditions of detention also seemed satisfactory. Marti had a long conversation with them during which, despite the presence of the chief of police, he openly informed them of the aims and activities of the ICRC and of his wish to contact the Karen authorities.

According to the government, it held no other Karen prisoners and there were probably no Burmese captives left in insurgent hands. All those who had been released claimed that they had been well treated.52

The Burmese government estimated the number of refugees at about 800,000. In Rangoon, some 200,000 of them were living outside camps and 20,000 in about 20 camps. Some 100,000 were sheltering in the Bassein area, including 22,000 in a dozen camps. Other refugees were scattered across the country, mainly in the large cities under government control. The number of refugees harbouring in Karen-held territory was, according to the government, minimal. In order to solve the housing problem, the authorities had distributed bamboo for the construction of shelters. As Burma was a big rice exporter, there was no general lack of food for the refugees, but their diet was monotonous and there was a shortage of milk for the children. Above all, medicines were needed. Marti visited six refugee camps in Rangoon and four camps and a hospital in Bassein, a city to the west of the capital.53

Here is how Marti described the situation: “Given the limited number of forces on either side, attacks are carried out on a relatively small scale (...). The Karen recently attempted, for instance, to seize Bassein, an important centre of rice production. This began with an operation to ‘cleanse’ the outlying areas (...), during which Karen insurgents stole cattle in a nearby Burmese village and set it on fire. Although the Karen do not as a rule attack the Burmese people, towards whom they bear no particular grudge, villagers now flee in terror at the sight of them. Entire regions are looted and

51 Note of 10 July 1949 by R. Marti on his trip to Burma – ICRC Archives, B G 3/27d.
burned. Burmese villages that have not yet been attacked build up their defences and take revenge by burning Karen villages. After a series of violent confrontations, calm returns, the grinding poverty continues, and people realize that nothing was gained by fighting. Disturbances nevertheless break out elsewhere, and so it goes on. Meanwhile, in the north, small numbers of government troops are regrouping. They may, for instance, decide to occupy a village held by insurgents. Sensing the danger, insurgents withdraw, leaving a few captives behind, and take over another government city that is not being defended (...). There is thus a patchwork of areas, half of them held by government troops and the other half by insurgents. These areas, which are constantly changing hands, lie side by side with a few government and Karen strongholds. Later on, Marti added: “According to the government, communists foment further trouble, making alliances with whomever they can in order to prolong the fighting. As for bandits, they are seen everywhere, as soon as there is anything to steal.”

*Appeal for aid to refugees*

Following Marti’s visit, the Burmese Red Cross sent the ICRC and the League of Red Cross Societies a request to assist a million homeless and indigent people in need of clothing, food and medicines. On 30 November 1949, the ICRC and the League sent a joint appeal for aid to refugees in Burma to a number of National Societies. A half dozen Societies responded by dispatching relief to the country. In September 1950, the ICRC sent the Burmese Red Cross four tonnes of medicines and medical supplies worth 64,000 Swiss francs to stock four clinics.

*Second ICRC visit*

Meanwhile, at the invitation of the president of the Burmese Red Cross, Marti visited Rangoon again from 27 to 30 July 1950. The Karen militants and their families whom Marti had seen a year earlier at Insein prison had nearly all been freed and either sent back home or transferred to Rangoon.

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54 Note of 10 July 1949 by R. Marti, *op. cit.*
55 Letters of July 1949 and 8 September 1949 from the Burmese Red Cross to the ICRC – ICRC Archives, B G 17/24.
56 Today, these would be called “displaced people”.
58 Among the government officials whom Marti met on his second visit was Khin Kyi, minister of social welfare and widow of General Aung San, who was assassinated in 1947 and is considered to be the father of national independence. Khin Kyi is the mother of Aung San Suu Kyi, a member of the Burmese opposition who was awarded the Nobel Peace Prize in 1991.
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where they could be more easily watched and where they lived in open camps or with their relatives. Those considered dangerous remained incarcerated but were well treated, according to the Karen themselves. This time, Marti had access to the Karen soldiers and policemen who had been expelled from the Burmese army and placed under house arrest in one area of Rangoon. He deemed their treatment to be satisfactory.

The number of displaced people still stood at over half a million, some 170,000 of them living in the camps. Marti visited 10 camps in Rangoon, where the most common complaint was a lack of food. The main problem – from which stemmed all the others – was how these people were to be reintegrated into society.\footnote{Note of 29 July 1950 by Marti on his trip to Burma in July 1950 – ICRC Archives, B G 17/24. ICRC Annual Report 1950, p. 77.}

\textit{Third ICRC visit}

During his second visit to Rangoon, Marti had received oral assurances that, on his return, he would be able to assess the situation of refugees and survey the activities of the Burmese Red Cross throughout the country. The third visit was carried out by his colleague Jean Courvoisier, from 19 February to 31 March 1951 for that twofold purpose. In addition, Courvoisier asked to see the Karen prisoners held near Rangoon and monitor the distribution of relief sent by the ICRC to the Burmese Red Cross.

Courvoisier estimated the number of displaced people at about 200,000 on the government side, 82,000 of whom were receiving assistance. While a number of them, especially those from the Irrawaddy Delta and from the larger cities, had been able to return to their homes, this was not the case for those from the north, east and south-east of the country. The aid provided by the ICRC and various National Societies had been distributed in all the camps and major cities, but the Burmese Red Cross was hampered by a lack of material support from the government, a factor that limited its scope for action in the interior of the country. As for the number of displaced Karen, no figures were available. In Rangoon, Courvoisier visited a camp for some 700 displaced people run by the Burmese Red Cross.

His efforts to see the Karen who had been placed under house arrest near the capital, including those seen by Marti during his second visit, were to no avail. The two letters he wrote for this purpose to General Ne Win, commander-in-chief of the Burmese armed forces, remained unanswered. Courvoisier put this silent treatment down to the government’s fear of revealing that it still held prisoners at a time when it claimed to have freed them all. The delegate received individual testimonies from former Karen prisoners, who reported that they had been treated humanely by their Burmese guards, thus confirming Marti’s impressions.

In more general terms, peace was still a long way off. Convoys travelling by road, rail and water were constantly attacked by resistance fighters, and not a day went by without Burmese troops having to intervene. Although the government controlled most of the cities, insurgents occupied large swathes of land and many of the routes
connecting one city to another were considered dangerous. According to one govern-
ment statistic, 12 million people lived in government-held areas and seven million in
rebel-held territory.60

Karen request for aid

In late May 1951, the ICRC was asked by the Karen61 to provide aid for the popu-
lation under their control. This request seemed to have been prompted by meetings
held by Courvoisier in Rangoon with persons close to opposition circles. The ICRC
was inclined to respond favourably to the request pending further information and, if
possible, an assessment on the ground by one of its delegates.62

On 13 July, the ICRC sent a letter to the Karen seeking details about the cat-
egories of victims requiring medical aid and stressing that one of its main tasks was to
assist prisoners of war and direct victims of armed conflict. It also asked whether the
Karen held any prisoners and mentioned the visits carried out by the ICRC to Karen
prisoners held in Insein and Rangoon in 1949 and 1950.63

The answer from the Karen, dated 17 September 1951, did not reach the ICRC
until a month later. It contained detailed information concerning the need for basic
medicines and vaccines for 10,000 to 15,000 displaced people, many of whom were
suffering from malaria, smallpox, cholera and other infectious diseases. The Karen
claimed to be holding about one hundred prisoners of war in conditions as satisfactory
as possible and invited the ICRC to send a delegate to assess the situation.64

In early November, the ICRC approved the principle of sending a delegate to
Karen-held territory, although the details had yet to be worked out and the medical
aid to be prepared. It also decided that the operation, which it considered fully justi-

60 Final report by J. Courvoisier on his visit to Burma from 19 February to 31 March 1951. Excerpt
from the minutes of the working session of the Commission on External Activities held on 19 April
1951 – ICRC Archives, B AG 200 141-001 and B AG 251 141-001.
61 Specifically, from the representative of the Kawthoolei Governing Body in Thailand.
62 Minutes of the meetings of the Commission for External Activities held on 27 June and 4 July 1951
and of the working session of the Committee held on 5 July 1951 – ICRC Archives, A PV. Note of
1 November 1951 by J. Babel on the Karen request and its annexes 1 and 2 – ICRC Archives, B AG
200 141-001.
63 Note of 1 November 1951 by J. Babel, op.cit., annex 3.
64 Note of 1 November 1951 by J. Babel, op.cit., annex 4.
65 Minutes of the working session of the Committee held on 8 November 1951 and minutes of the
meetings of the Commission for External Activities held on 14 and 28 November 1951 – ICRC
Archives, A PV. Note of 1 November 1951 by J. Babel, op. cit. Letters of 30 November 1951 from
the ICRC to the Burmese Red Cross and to the Kawthoolei Governing Body – ICRC Archives,
BAG 280 141-001.
Having received no reply from Rangoon by January 1952, the ICRC contacted the Burmese Red Cross, which informed it that the government had not yet approved the operation. Moreover, the existence of Burmese prisoners in Karen hands was denied, and the Karen were characterized as “groups of bandits”.

While the Karen were preparing a travel itinerary for the ICRC – from Thailand, partly by elephant or mule – and a schedule for the visit, which was to last 25 days, the organization informed the Burmese Red Cross of its intentions. At this stage, the Burmese government reiterated its opposition to the delivery of aid to the Karen, fearing that this would only encourage the insurgents to persist in their struggle. It assured the ICRC that it had taken all necessary measures to provide medical aid for the inhabitants of the areas occupied by the insurgents and advised the organization to arrange for the delivery of aid through the Burmese Red Cross. The ICRC was forced to admit that it had reached an impasse, all the more so as the arrival of the monsoon season ruled out travel through Thailand.

Theoretically, the ICRC considered that it did not require the consent of one party – provided there was no need to cross its territory – to carry out a relief operation for the other party. But it was also mindful of the fact that Burma, although present at the 1949 Diplomatic Conference, was one of the few countries that had not signed the newly minted Geneva Conventions. During the Conference, it had also voiced its opposition to common Article 3 applicable to non-international armed conflict. The ICRC feared that by insisting too heavily on the Karen question, it might prompt Burma’s refusal to ratify the Conventions and that other Asian countries might follow suit.

Finally, having received renewed and pressing appeals from the Karen, the ICRC decided to ask the Thai Red Cross to serve as an intermediary, with the consent of the Thai authorities, by taking delivery of a consignment of medicines in Bangkok and sending it on by air to a Karen representative in northern Thailand. After some delay,

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66 Telegram of 10 January 1952 from the ICRC to the Burmese Red Cross and telegram of 13 January 1952 from the latter to the ICRC – ICRC Archives, B AG 251 141-001. Minutes of the meetings of the Commission for External Activities held on 9 and 16 January 1952 – ICRC Archives, A PV.

67 Letter of 6 February 1952 from the Kawthoolei Governing Body to the ICRC. Letter of 23 April 1952 from the ICRC to the Burmese authorities and their reply of 3 May 1952. Note of 13 May 1952 from R. Olgiati concerning the planned operation for the Karen. Minutes of the meeting of the Commission for External Activities held on 5 March 1952 – ICRC Archives, B AG 251 141-001, B AG 280 141-001 and A PV.

68 In 1979, the ICRC confirmed its policy whereby its activities for victims of non-international armed conflict who find themselves in territory controlled by one of the parties does not depend on the consent of the other party. As a general rule, however, it informs both parties of any action it takes.

69 Minutes of the meetings of the Commission for External Activities held on 14 May and 11 June 1952 and minutes of the working session of the Committee held on 5 June 1952 – ICRC Archives, A PV. The Republic of the Union of Myanmar became a party to the 1949 Geneva Conventions on 25 August 1992.
the ICRC sent a small consignment of smallpox vaccines in March 1953 to immunize refugees in Karen-held territory.\(^70\)

In mid-June 1953, the Karen representative confirmed receipt of the consignment and asked whether further shipments were planned. On three separate occasions, in order to facilitate approval for the transport of further supplies through Thai territory, the ICRC wrote to the Karen representative enquiring about the use made of the first consignment and about distribution procedures. Having received no reply, it decided not to proceed with this activity. In any event, the Karen seemed by this time to have resumed more or less official relations with the government in Rangoon.\(^71\)

**Conclusion**

In Burma, as in the South Moluccas,\(^72\) the ICRC faced a situation involving a secessionist insurrection. In both places, it ran up against the government’s refusal to allow it to conduct any activities in opposition territory. While its policy dictated that it should not require the consent of one party – provided there was no need to cross that party’s territory – to discharge its humanitarian mandate in areas controlled by the other party, its resolve to uphold this policy was weakened by the fear that by insisting on the Karen question it might trigger a refusal by Burma to ratify the 1949 Geneva Conventions. To this can be added obstacles of a logistic nature and the fact that, after a federated Karen state was set up in late 1951, the conflict seemed to subside.

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\(^{70}\) Letter of 28 April 1952 and telegram of 30 May 1952 from the Kawthoolei Governing Body to the ICRC. Letter of 26 June 1952 from the ICRC to the Thai Red Cross – ICRC Archives, B AG 251 141-001 and B AG 280 141-001. Minutes of the meetings of the Commission for External Activities held on 12 and 18 November and 2 December 1952 and on 24 April 1953 – ICRC Archives, PV.

\(^{71}\) Letter of 16 June 1953 from the Kawthoolei Governing Body to the ICRC. Letters of 5 August and 8 September 1953 and of 16 June 1954 from the ICRC to the Kawthoolei Governing Body. Note of 5 January 1955 from J.P. Maunoir about the Karen – B AG 280 141-001. Minutes of the meeting of the Commission for External Activities held on 15 February 1955 – ICRC Archives, A PV.

\(^{72}\) See pp. 315 ff. above.
During the Second World War, the ICRC was so busy providing desperately needed aid for victims of the bloodshed in Europe that it paid scant attention to events in Latin America, which had been spared by the conflict.

In July 1946, it sought to reverse that course by renewing its contacts with leaders of the Latin American Red Cross Societies attending the Board of Governors of the League of Red Cross Societies in Oxford\(^1\) and, shortly thereafter, the Preliminary Conference of National Red Cross Societies in Geneva.\(^2\)

In 1947, seeking to further strengthen its contacts throughout Latin America prior to the opening of the 17th International Conference of the Red Cross, which was to be convened the following year,\(^3\) the ICRC asked director and delegate Georges Dunand to meet with representatives of the National Societies and the governments of the region’s 20 countries. Dunand began by attending the Fifth Inter-American Conference of the Red Cross,\(^4\) held in Caracas from 9 to 15 February, and then travelled throughout Latin America until the end of July 1947. His task was to emphasize the universality of the Red Cross, to inform the National Societies about the ICRC’s activities and experiences during the Second World War, to discuss the principles governing its work and its specific role, especially that as a neutral intermediary, to explain the steps being undertaken to revise and update the Geneva Conventions and, lastly, to raise funds for various activities to assist victims of the Second World War and its aftermath.\(^5\)

Unexpectedly, civil war erupted in Paraguay while Dunand was still in Latin America.

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1. See p. 44 above.
2. See p. 48 above.
3. See p. 70 above.
4. Regional conference held by the League of Red Cross Societies every four years.
Asuncion
Posadas
Ponta Pora
Concepcion
Clorinda
Pedro Caballero
Paraguay
Argentina
Bolivia
Brazil
Uruguay

47. Paraguay
Paraguay

In December 1946, the Febrerista Party had failed in its attempt to take over the government, headed by General Higinio Morinigo since 1940. This aborted coup d’état triggered the outbreak of civil war on 7 March 1947. Rebel forces, led by Colonel Rafael Franco, were backed by the Febreristas, the Liberal Party and the Communist Party. President Morinigo had the support of the Colorado Party. Despite many defections from its ranks, the Paraguayan army overcame the rebels thanks to the decisive action of Lieutenant Colonel Alfredo Stroessner. The civil war, which claimed some 5,000 lives, came to a close on 22 August 1947.

ICRC hesitation

In late March 1947, Dunand, who was still travelling in Latin America, asked ICRC headquarters for instructions regarding any initiative to be taken in Paraguay.

On the basis of the information at its disposal, the ICRC considered that the chaotic situation prevailing in the country precluded any useful action on its part, not to mention the difficulty of finding a delegate qualified for the task. It nevertheless asked Dunand and its delegation in neighbouring Argentina whether they agreed with this assessment and, if not, what type of action they would recommend.

The delegation in Buenos Aires was run by two residents – Swiss nationals living and working in the country who served the ICRC on a part-time and voluntary basis, one of whom was on home leave at the time. They were opposed to launching any operation from Argentina on the grounds that the country’s government backed the authorities in Asunción and had no contacts with rebel forces based in Concepción. While leaving the decision up to headquarters, the delegates recommended consulting their counterpart in neighbouring Brazil. The delegate on leave in Switzerland at the time warned the organization that major interests were at stake for Swiss nationals residing in Argentina, Brazil and Uruguay, for whom it would be fatal to be seen as taking sides in an “internal quarrel among parties”. If the ICRC wished to take action, it should therefore send a delegate from Geneva. As for the resident delegate in Rio de Janeiro, he considered that, since Brazil had no relations with Concepción, nothing could be undertaken from that country to assist the two parties. Moreover,

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6 President of Paraguay from 1954 to 1989.
8 Telegram of 23 March 1947 from G. Dunand in Tegucigalpa. Minutes of the meeting of the Bureau held on 3 April 1947 – ICRC Archives, A PV and B AG CR 22-4.
9 Telegram of 10 April 1947 from the ICRC delegation in Buenos Aires, sent via the Swiss Legation – ICRC Archives, B AG CR 22-4.
10 Note of 22 April 1947 from the ICRC to G. Dunand – ICRC Archives, B AG CR 22-4.
according to news reports, an attempt at mediation to end the conflict was already under way.\textsuperscript{11}

Informed of the above, a disgruntled Dunand wrote: “On the one hand I cannot, during my trip, visit every Latin American country save Paraguay and, on the other, I cannot go to Paraguay while turning a blind eye to the civil war there. Moreover, the ICRC cannot – even setting aside humanitarian considerations – simply ignore a civil war without jeopardizing the credibility it gained, when all is said and done, during the Second World War (...) Lastly, we know from news reports that not only have people lost their lives but some of the wounded have fallen into enemy hands and prisoners have been taken on both sides. (...) You also say that (...) someone must be sent from Geneva. As far as I am concerned, I do not plan to stay in Asunción more than a few days and I cannot conceive of any reason why someone should be sent from Geneva to undertake negotiations in Asunción and Concepción when we have delegates right there on the spot.”\textsuperscript{12} In conclusion, Dunand asked the ICRC for official instructions before his arrival in Paraguay.

On 20 May, Vice-President Ernest Gloor told Dunand that headquarters was in no position to judge what measures should be taken in Paraguay, which could only be done by someone on the spot. Dunand’s presence in Buenos Aires made him the best judge of the possibilities for humanitarian action. Dunand was also given free rein to choose any delegate he wished – if he deemed it necessary – to be sent to Paraguay.\textsuperscript{13}

For Dunand, it was obvious that the ICRC, which was seeking to broaden the scope of the Geneva Conventions to encompass civil war,\textsuperscript{14} should deploy its activities in Paraguay – all the more so as the Uruguayan Red Cross had paved the way for providing assistance to both sides (see below). However, Dunand harboured no illusions about his powers of persuasion. Nor did it help that President Morinigo, after declaring war on the rebels, immediately reversed his position upon learning of the legal consequences of such a declaration. As for the rebels, they were striving to obtain international recognition of what they considered a state of war.\textsuperscript{15}

\textit{Offers by Uruguayan and Argentine Red Cross Societies}

On 16 April 1947, as the ICRC was vacillating, the Uruguayan Red Cross informed the organization that, with the support of its government, it was preparing to charter a flight carrying medical supplies for distribution to both parties, in Asunción and

\begin{footnotesize}
\begin{itemize}
\item \textsuperscript{11} Note of 28 April 1947 from E. Haegler to the ICRC – ICRC Archives, CR 22-4.
\item \textsuperscript{12} Note of 7 May 1947 by G. Dunand, Lima – ICRC Archives, CR 22-4.
\item \textsuperscript{13} Telegram of 20 May 1947 from E. Gloor to G. Dunand, sent via the Swiss Legation in Santiago, and minutes of the meeting of the Delegations Commission held on 21 May 1947 – ICRC Archives, CR 22-4 and A PV.
\item \textsuperscript{14} See pp. 209 ff. above.
\item \textsuperscript{15} Note of 15 June 1947 from G. Dunand in Buenos Aires to E. Gloor – ICRC Archives, CR 22-4.
\end{itemize}
\end{footnotesize}
Concepción respectively. It sent the same message to the ICRC delegation in Buenos Aires and the Argentine Red Cross, whose support it requested if needed.16

At the urging of the Uruguayan Red Cross, the ICRC delegation in Buenos Aires took steps to facilitate the delivery of the necessary authorizations. In the end, the aircraft chartered by the National Society, which bore a red cross, delivered medicines intended for government forces to the Argentine city of Posadas, near the border with Paraguay, where the Argentine Red Cross handed them over to the Paraguayan National Society. Meanwhile, medicines intended for the rebels were taken to Ponta Pora, Brazil, near the Paraguayan city of Pedro Juan Caballero, where they were handed over in the presence of a Brazilian Red Cross delegate. The authorizations required for overflying Brazilian airspace were obtained from the two governments concerned.17

For its part, the Argentine Red Cross delivered medicines, in mid-June, to the two border cities of Clorinda and Ponta Pora, where they were taken onward to Asunción and Concepción.18 In August, the National Society sent another 500 kilos of medicines to Asunción, where it set up a blood-transfusion centre.19

**Dunand’s visit to Paraguay**

After making arrangements for his visit to Paraguay with the assistance of the country’s representatives in Buenos Aires and Montevideo, Dunand travelled to Asunción, where he stayed from 16 to 19 June, together with a part-time member of the Buenos Aires delegation who had been appointed deputy-delegate for the occasion. On 17 June, Dunand handed to the Paraguayan minister of foreign affairs a memorandum proposing the following measures to assist conflict victims:

- Provide families with lists of prisoners of war and civilian internees [i.e. captured combatants and political detainees];
- Allow prisoners and their families to exchange letters;

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16 Letter of 16 April 1947 from the president of the Uruguayan Red Cross to the ICRC. Telegram and note of 19 April 1947 from the ICRC delegation in Buenos Aires to ICRC headquarters – ICRC Archives, CR 22-4.


– Allow prisoners to receive parcels;
– Authorize ICRC delegates or representatives of other neutral charitable organizations to visit and talk to prisoners, thereby giving them moral support.20

Dunand suggested that the implementation of these measures be entrusted to the Paraguayan Red Cross – which was already backing up public medical services for the wounded and the sick – or to another neutral organization such as the Red Cross Society of a neighbouring country, which the ICRC was prepared to assist as required.21 The minister and other government representatives whom Dunand met assured him of their support. The chief of police, declaring that captured combatants and political detainees were free to receive private visits and uncensored letters, invited Dunand to visit the camps in order to “let the truth be known”.22 Wary of this statement, Dunand avoided committing himself until he had received official assurances from the Paraguayan government that the visits could be carried out in conformity with the ICRC’s customary discretion.

On 9 July, Dunand sent a similar memorandum from Rio de Janeiro to the military junta in Concepción, stating that the ICRC stood ready to discuss the practical aspects of the measures proposed. The memorandum was sent through a Brazilian Red Cross delegate who was in touch with the rebels in Ponta Pora.23

On his return home from his tour of Latin America in late July 1947, having received no reply from either party, Dunand suggested that the ICRC send them a reminder. At first, the ICRC agreed to do so, but it delayed action after receiving contradictory information on the situation in Paraguay, where the end of the civil war was officially proclaimed on 22 August 1947.24

In September of that year, the ICRC nevertheless confirmed the terms of its memorandum to the Paraguayan minister of foreign relations, stressing that some of the measures it had proposed remained valid even though the conflict had ended.25

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21 Memorandum of 17 June 1947, Asunción (translation), op. cit.
22 Note of 21 June 1947 by G. Dunand in Buenos Aires, op. cit.
24 Minutes of the meetings of the Bureau held on 31 July and 7 August 1947 – ICRC Archives, A PV.
Epilogue

In May 1948, General Rafael Franco, who had taken refuge in Buenos Aires, approached the ICRC in his capacity as president of the Febreristas Party to denounce the persecution of combatants captured during the civil war, political detainees and the families of political opponents who had fled abroad. He asked the ICRC to take immediate action pursuant to its Statutes.²⁶

The ICRC, without a delegate on the spot, replied that it was examining how it might assist the victims. It added that the problem fell outside the framework of its traditional activities, which were aimed at protecting those who, in time of war or internal strife, fell under the control of a foreign government rather than the nationals of a sovereign State.²⁷

Meanwhile, in the absence of any news from its two resident delegates in Buenos Aires, the ICRC took the easy way out – as it readily acknowledged: it sent copies of its reply to the Argentine and Brazilian Red Cross Societies, asking them to let it know whether the accusations of persecution made by General Franco were founded and, if so, what sort of assistance might be provided for the victims. The Argentine Red Cross suggested that the ICRC contact the Paraguayan National Society directly for information, while the Brazilian Red Cross replied that it did not have the means to carry out an investigation, whether in Paraguay or elsewhere.²⁸

Conclusion

The fact that the ICRC took any action at all during the civil war in Paraguay was mainly thanks to the efforts undertaken by its director and delegate Georges Dunand during his travels through Latin America. His representations in Asunción and Concepción received very little support from ICRC headquarters, where all eyes were trained on the aftermath of the Second World War and the organization's financial woes. Indeed, funds were sorely lacking to hire delegates at a time when the ICRC’s services were increasingly in demand owing to the proliferation of new conflicts – the struggle for independence in Indonesia, the Indochina War and the Greek Civil War, among others – and when its expertise was needed to develop international law in advance of the Conference of Government Experts.²⁹ In this regard, one cannot help but notice the blatant inconsistency demonstrated by the ICRC in urging the Conference

²⁷ Note of 15 June 1948 from E. de Bondeli to the Bureau regarding political detainees in Paraguay. Minutes of the meeting of the Bureau held on 16 June 1948. Letter of 18 June 1948 (French version) from the ICRC to General Rafael Franco – ICRC Archives, CR 22-4 and A PV.
²⁸ Letter of 18 June 1948 (French version) from the ICRC to the Argentine Red Cross and note of 1 July 1948 from the ICRC to its delegation in Buenos Aires. Letter of 19 July 1948 from the Argentine Red Cross and letter of 14 September 1948 from the Brazilian Red Cross to the ICRC – ICRC Archives CR 22-4.
²⁹ See pp. 215 ff. above.
to support the application of the Geneva Conventions to civil war while failing to take any meaningful action in Paraguay or even to back Dunand’s efforts to that end, choosing instead to unload its responsibilities on neighbouring National Societies.

The case of Paraguay also highlights the problem posed by the ICRC’s resident delegates – Swiss nationals living and working abroad who served the organization on a voluntary and part-time basis. As pointed out by Dunand in his report on his trip to Latin America, it was not in the ICRC’s interest to recruit employees of major Swiss corporations, which host countries were in any event gradually eliminating or nationalizing, as delegates – regardless of their personal attributes. This was the ICRC’s Achilles’ heel, which repeatedly hampered the organization’s efforts in Latin America, as in Greece and Spain.

President's visit and political detainees

Following the events in Paraguay, Latin America seemed to fade from the ICRC’s radar until October 1951, when an ICRC delegation attended the Sixth Inter-American Conference of the Red Cross held in Mexico City.

Less than a year later, ICRC President Paul Ruegger undertook a three-week tour of six Latin American countries – Argentina, Brazil, Colombia, Panama, Uruguay and Venezuela – before heading to Toronto for the 18th International Conference of the Red Cross. In several of these countries, he was struck by the large numbers of political detainees being held in connection with internal disturbances. Some were made to endure inhuman conditions – secret places of confinement, no contact with family members and no visits or aid from humanitarian organizations. Respect for human life and measures to guarantee such respect were subjects that came up over and over again with people he met in those countries. Given the scope and seriousness of the problem, President Ruegger decided to raise it during the 18th International Conference. Background documents were prepared to that effect, together with a draft resolution proposing that the ICRC undertake a feasibility study on the drafting of an international convention designed to guarantee humane conditions for political detainees and provide for monitoring by an impartial humanitarian organization. However, the

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30 Final report of 21 July 1947 by G. Dunand on his visit to Latin America. Minutes of the meeting of the Bureau held on 24 July 1947– ICRC Archives, B G 3/34a AL-34 and A PV.

31 RICR, No. 395, November 1951, pp. 856–858.


33 Document D 250 on protection for political detainees, op. cit. Note of 21 July 1952 from the Swiss Federal Department of Foreign Affairs accompanying a telegram from President P. Ruegger to the ICRC. Note by H. Coursier and appended draft resolution, undated – ICRC Archives, B AG 251 000-006 and B AG 225 222-001.
climate of extreme tension that arose during the Conference and the attacks levelled at the ICRC caused President Ruegger to abandon the idea for fear of jeopardizing consensus over the ratification of the newly minted 1949 Geneva Conventions.

The president’s trip nevertheless rekindled the ICRC’s interest in Latin America, where – apart from its aborted efforts in Paraguay – it had done nothing to speak of since its activities during the Chaco War. Yet internal disturbances verging on civil war were endemic in many countries in the region, and the ICRC had a mandate to offer its services in such situations pursuant to its Statutes, those of the International Red Cross and Article 3 common to the 1949 Geneva Conventions.

At the time, the ICRC maintained seven “delegations” in Latin America – those in Argentina, Bolivia, Brazil, Colombia, Mexico, Peru and Venezuela. However, they were run by resident delegates who served the ICRC only sporadically, mostly in connection with the aftermath of the Second World War and to promote the Geneva Conventions.

These delegates, busy with their own careers, did not have the time or the skills required to broaden the scope of their activities for the ICRC. Moreover, owing to the positions they occupied in their countries of residence, they did not always enjoy the independence needed to handle sensitive issues such as political detainees.

In an effort to strengthen its ties with the Red Cross Societies of Latin America and to communicate its ideas in Spanish, the ICRC therefore engaged the services of Juan G. de Rueda, a Mexican Red Cross delegate. De Rueda was tasked with spreading knowledge of the ICRC’s mandate and activities and promoting the Red Cross principles and the provisions of the recently adopted Geneva Conventions. This step was also intended, over the long term, to develop the capacity of Latin American National

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34 See pp. 103 ff. above.
37 Minutes of the meeting of the Commission for External Activities held on 27 January 1953 and Annex 1, op. cit.
Societies to operate during internal disturbances and to take any urgent measures while awaiting the arrival of ICRC delegates.\textsuperscript{39}

As a second step, the ICRC appointed a special delegate at its headquarters in Geneva to monitor and coordinate all questions relating to Latin America in order to make better use of the organization’s resident delegates and to pave the way for new activities.\textsuperscript{40}

The efforts undertaken by the ICRC in Latin America between 1952, when its president visited the region, and 1955, are set out below in chronological order. They cover Venezuela, Bolivia, Guatemala, Nicaragua and Argentina.

\textbf{Venezuela}

When Venezuelan President Romulo Gallegos of the Democratic Action Party was ousted during a coup d’état in November 1948, the reins of power fell into the hands of a military junta. Four years later, during the political campaign that preceded the presidential election, numerous arrests were made and both Democratic Action and the Communist Party were banned. At the end of 1952, the army imposed Colonel Marcos Perez Jimenez as the country’s leader.

On 4 August 1952, Luis Lander, former president of the Chamber of Deputies, acting on behalf of deposed president Romulo Gallegos,\textsuperscript{41} had sent a letter to the president of the ICRC who was attending the 18th International Conference of the Red Cross in Toronto. In the letter, Lander requested that the ICRC provide material aid for some 400 members of the banned Democratic Action Party who were being held in a camp on Guasina Island, in the Orinoco Delta on the country’s Atlantic coast. He emphasized that the camp was located in an insalubrious region where epidemics were rife. Many of the internees were sick, he said, and would no doubt die owing to the harsh climate, the lack of medical care, malnutrition and forced labour.\textsuperscript{42}

President Ruegger, who did not receive the letter until the end of the Conference, replied that the ICRC would examine the request in due course and decide whether, and to what extent, it could respond, with the consent of the Venezuelan authorities, by sending medicines.\textsuperscript{43}

\textsuperscript{39} Minutes of the meeting of the Presidential Council held on 1 May 1952 – ICRC Archives, A PV.
\textsuperscript{40} Minutes of the meeting of the Commission for External Activities held on 27 January 1953, \textit{op. cit.}
\textsuperscript{41} Minutes of the meeting of the working session of the Committee held on 21 January 1954 – ICRC Archives, A PV.
\textsuperscript{42} Both were living in exile.
\textsuperscript{43} Letter of 4 August 1952 from L. Lander to P. Ruegger in Toronto and its annex on the conditions of detention in Guasina – ICRC Archives, B AG 225 222-001.
\textsuperscript{43} Note of 11 November 1952 from C. Turian to the Commission for External Affairs regarding political internees in Venezuela – ICRC Archives, B AG 225 222-001.
In early September, the ICRC asked its resident delegate in Caracas, Robert Moll, to obtain further information on political detainees held in Venezuela and on the attitude of the Venezuelan Red Cross and government authorities towards them.\footnote{Note of 10 September 1952 from E. de Ribaupierre to the ICRC delegation in Caracas – ICRC Archives, B AG 225 222-001.}

Moll approached various members of the Ministry of Foreign Affairs, including the foreign minister himself, all of whom denied the allegations. It soon became clear that the delivery of medicines to the detainees would be frowned upon, if not outright prohibited by the Venezuelan government. The minister was equally opposed to any visits to Guasina by ICRC delegates. The internees were considered by the authorities as political agitators bent on stirring up trouble, and any visit by the ICRC would only be interpreted by Democratic Action supporters as a confirmation of Lander’s allegations.\footnote{Note of 11 November 1952 from C. Turian, \textit{op. cit.} Notes of 22 September and 23 October 1952 by R. Moll – ICRC Archives, B AG 225 222-001.}

Apprised of this, the ICRC Commission for External Activities considered that “in the absence of internal disturbances rising to the level of non-international armed conflict within the meaning of Article 3 common to the four Geneva Conventions”, there was “no legal basis for the Committee to assist political detainees in Venezuela”. It added that “humanitarian considerations were the only grounds on which the Committee could, if necessary, request authorization to visit the detainees”. Noting that the same problem arose elsewhere, not only in Latin America but also in Greece and in certain Eastern European countries, the Commission urged the Committee to “define, insofar as possible, the limits of its right of humanitarian initiative, not only during civil war and internal disturbances but also with respect to assisting persons detained for political reasons unrelated to armed conflict”.\footnote{Minutes of the meeting of the Commission for External Affairs held on 12 November 1952 – ICRC Archives, A PV.}

The Presidential Council expressed its own doubts as to the grounds for ICRC intervention. At the most, it considered that the ICRC could invoke Resolution XX of the 17th International Conference of the Red Cross (Stockholm, August 1948), which expressed the hope that “persons prosecuted or detained for political reasons” would receive protection in accordance with the humanitarian principles set out in the Geneva Conventions. The Presidential Council stressed the importance of approaching the problem from a general perspective as part of a study on internal disturbances already begun by the Legal Commission.\footnote{Minutes of the meeting of the Presidential Council held on 13 November 1952 – ICRC Archives, A PV. See p. 281 above.}

Moll was thereupon asked to suspend his representations in Caracas.\footnote{Note of 18 November 1952 from D. de Traz to the ICRC delegation in Caracas – ICRC Archives, B AG 225 222-001.}
In late December 1952, Moll informed the ICRC that, according to the press, the camp at Guasina had been closed and all political detainees not being prosecuted had been released.  

Bolivia

In April 1952, Bolivia’s oligarchic regime was overthrown in a coup d’état. Power was handed back to the National Revolutionary Movement, which nationalized the country’s tin mines and initiated a land-reform programme that undermined the power of big landowners. The failing economy was then shored up by the United States in a bid to prevent a communist takeover.

Between late 1953 and early 1954, the ICRC received requests from Bolivian exile communities and political refugees to come to the aid of political detainees held in the country, who reportedly numbered in the thousands.

The ICRC was unable to process those requests as it had lost contact with its resident delegate in La Paz, whose silence was put down to censorship. The ICRC also lacked information about the Bolivian Red Cross, whose leaders had changed and which had been placed under government control.

Later on, when its delegate visited Switzerland, the ICRC learned that he had attempted to raise the issue of political detainees with the Bolivian Ministry of the Interior. No follow-up was given to his approach on the grounds that previous regimes, which had also held political prisoners, had ignored the issue. As for the National Society, whose independence was not restored until 1956, it was to all intents and purposes helpless.

Guatemala

After many years of military dictatorship, a coup d’état staged in 1944 paved the way for a democratic regime in Guatemala. The new president, Juan José Arévalo, a civilian elected in December of the same year, adopted a series of social reforms during his term of office.

His successor, Colonel Jacobo Arbenz Guzmán, elected in March 1951, followed in his footsteps by launching a land-reform programme aimed at handing over fallow

49 Note of 20 December 1952 by R. Moll – ICRC Archives, B AG 225 222-001.

50 Minutes of the working session of the Committee held on 21 January 1954 and Annex D 327 on political detainees held in Bolivía. Note of 23 June 1954 by E. de Ribaupierre and its two annexes – ICRC Archives, A PV and B AG 225 033-001.

51 Note of 23 June 1954 by E. de Ribaupierre, op. cit. Letter of 7 July 1954 from F. Siordet, ICRC vice-president, to the Swiss ambassador in Lima and letter of 6 August 1954 from President P. Ruegger to the same ambassador – ICRC Archives, B AG 225 033-001 and 252 033-001.

52 Minutes of the meeting held on 22 September 1955 with Paul Gacon, the ICRC’s resident delegate in Bolivia, drawn up by P. Jequier. Note of 1 March 1956 by P. Gacon appended to letter of 5 March 1956 to the Swiss ambassador in Lima – ICRC Archives, B AG 225 033-001 and 252 033-001.
fields to landless peasants. This programme ran into strong opposition from large landowners and fruit companies, whose interests it harmed, in particular the powerful American United Fruit Company, which was forced to relinquish land that it had been keeping in reserve. The large landowners and fruit companies, who enjoyed the support of the United States within the framework of the Organization of American States and were backed not only by right-wing parties but – when the time came and with the encouragement of the CIA – Guatemalan military officers, accused the Arbenz regime of espousing communism.

On 18 June 1954, an army of exiles, equipped and supported by the CIA, invaded the country from Honduras under the command of Colonel Carlos Castillo Armas, who had been sentenced to death by the Arévalo and Arbenz regimes and had escaped to Honduras. He demanded the unconditional resignation of President Arbenz and, on 25 June 1954, set up a provisional government in the city of Chiquimula, in south-eastern Guatemala. The fact that he had military aircraft at his disposal, unlike the national army, gave him the upper hand despite strong resistance on the part of Arbenz’s forces. Moreover, following underhanded dealings by the US ambassador, many of the regime’s officers defected. On 27 June, President Arbenz resigned from office, handing power over to a junta led by a colonel who promised to fight the rebels. After a meeting with the US ambassador, the colonel nevertheless accepted the ultimatum set by the invaders and stepped down on 28 June. Another officer took over as head of the junta until Carlos Castillo Armas made his official entry into Guatemala City on 3 July and was declared president of the Republic five days later.

Once in power, Castillo Armas abolished all the social and economic reforms put in place by his predecessors and instituted a reign of terror that hit the indigenous population especially hard. He was assassinated in 1957.

_Prelude to action and offers of services_

On 11 June 1954, two anti-communist groups based in Tegucigalpa, the capital of Honduras, sent the ICRC a telegram asking it to intervene and denouncing alleged persecution and torture inflicted on those who were fighting communism in Guatemala.

As the armed conflict had not yet broken out, the ICRC deemed that it had no grounds for intervening in a matter relating to the internal affairs of a State. It nevertheless considered informing the Honduran Red Cross of the telegram and urging it to contact the Guatemalan Red Cross and to keep the ICRC abreast should the situation deteriorate further.

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54 Telegram of 11 June 1954 to the ICRC from the Anti-Communist Liberation Front and the National Anti-Communist Front – ICRC Archives, B AG 200 086-001.

55 Draft telegram to the Honduran Red Cross, undated. Minutes of the meeting of the Presidential Council held on 18 June 1954 – ICRC Archives, B AG 200 086-001 and A PV.
48. Central America

49. Guatemala
On 21 June, following the military operation launched from Honduras by anti-communists, the ICRC reversed course and sent a telegram to the Guatemalan Red Cross offering its services.\(^{56}\) This was in keeping with the guidelines it had set for itself in January 1953, which required it to contact the National Society of the country concerned in the event of internal disturbances.\(^{57}\)

The ICRC president, Paul Ruegger, who had been made keenly aware of the problem of political detainees by his trip to Latin America in 1952, pushed for rapid action in Guatemala. He recommended offering the ICRC’s services to both parties, publicizing the offers in the press and over the radio in order to reach the insurgents and sending a delegate to the country.\(^{58}\)

The ICRC nevertheless decided to wait for an answer from the Guatemalan Red Cross before officially notifying the parties of its offer. The National Society responded by saying that, for the time being, it required no assistance. In view of further developments, the ICRC sent a second telegram to the National Society reiterating its offer to send a delegate to the country if required. At the same time, it broadcast several times a day, on 24 and 25 June 1954, a radio appeal reminding “all those concerned” of the Red Cross principles, urging them to spare civilians and assist the victims and renewing its offer of services, in the spirit of the Geneva Conventions. The reminder to spare civilians was prompted by a letter from the Guatemalan Ministry of Foreign Affairs to the country’s Consul in Geneva, who passed it on to the ICRC, expressing the fear that civilians might come under heavy attack.\(^{59}\)

On 26 June, the provisional government set up in Chiquimula requested ICRC medical assistance for the wounded on both sides. The next day, the Guatemalan Red Cross agreed to the ICRC’s proposal to send a delegate to Guatemala City.\(^{60}\)

Having obtained the consent of both sides, the ICRC considered that it had a mandate to step in, all the more so as Guatemala had ratified the 1949 Geneva Conventions, including common Article 3 governing non-international armed conflict, on 14 May 1952.\(^{61}\)

\(^{56}\) Telegram of 21 June 1954 from the ICRC to the Guatemalan Red Cross. Note of 23 June 1954 from M. Borsinger on the conflict in Guatemala – ICRC Archives, B AG 200 086-001.

\(^{57}\) See p. 280 above.

\(^{58}\) Message of 22 June 1954 from P. Ruegger, who was travelling at the time, to ICRC headquarters – ICRC Archives, B AG 200 086-001.

\(^{59}\) Minutes of the meeting of the Commission for External Affairs held on 22 June 1954 and minutes of the meeting of the Presidential Council held on 24 June 1954. Telegrams of 22 June 1954 from the Guatemalan Red Cross to the ICRC and of 24 June 1954 from the ICRC to the National Society. Radio message of 24 June 1954. Note of 6 July 1954 from the ICRC to its delegates in Latin America – ICRC Archives, A PV and B AG 200 086-001.

\(^{60}\) Telegram of 26 June 1954 to the ICRC, sent via Tegucigalpa and Miami, from Carlos Salazar, minister of foreign affairs of the provisional government of Guatemala, and telegram of 27 June 1954 from the Guatemalan Red Cross, both received by the ICRC on 28 June 1954 – ICRC Archives, B AG 200 086-001.

\(^{61}\) Minutes of the plenary meeting of the Committee held on 1 July 1954 and minutes of the meeting of the Presidential Council held on 15 July 1954 – ICRC Archives, A PV.
Arrival of ICRC delegate and visit to political detainees

Pierre Jequier, deputy-director of the Central Prisoners of War Agency and former ICRC delegate in Spain, arrived on 3 July 1954 in Mexico City, where he purchased 10,000 Swiss francs worth of emergency medical supplies with the help of the Mexican Red Cross. On 12 July, he left for Guatemala City, where he was welcomed by the Guatemalan Red Cross, whose leaders had remained in place during the regime change. Two days later he was received, in their company, by the new Guatemalan minister of foreign affairs, Carlos Salazar Gatica, who had signed the telegram of 26 June from the provisional government. Salazar authorized Jequier to visit prisons holding political detainees.\(^{62}\)

At headquarters in Geneva, the ICRC noted that, for the first time in a situation covered by common Article 3, both parties welcomed the arrival of its delegates. It decided to set a precedent by publishing a press release announcing its presence in Guatemala.\(^{63}\)

From 17 to 20 July, Jequier, accompanied by National Society representatives, visited three places of detention in the capital: the central prison, the civil-guard barracks and the women’s prison.

The central prison housed 1,800 inmates, including 1,000 political detainees. Most of these were workers or peasants who had been arrested by the civil guard in their villages and brought by convoy to the prison. Their complaints did not centre on their treatment but on the fact that they had been kept in the dark as to the reasons for their arrest and had been made to abandon their land and their families. According to Jequier, the quarters and hygiene conditions were unsatisfactory owing to overcrowding. As the detainees were also malnourished, the ICRC and the Guatemalan Red Cross brought them food as a first step.\(^{64}\)

Those in charge of the civil-guard barracks showed Jequier a room where political detainees had allegedly been tortured under the previous regime. Jequier was urged to talk to a former torturer who was incarcerated in the barracks. During Jequier’s visit, some 2,000 detainees were also being held there in such poor sanitary conditions that an epidemic broke out and was only contained once the Guatemalan Red Cross had set up an infirmary on the premises.\(^{65}\)

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\(^{62}\) Note of 15 July 1954 from P. Jequier to the ICRC – ICRC Archives, B AG 200 086-001.


\(^{64}\) Report of 17 July 1954 by P. Jequier on his visit of the same day to the central prison (\textit{penitenciaria}) in Guatemala City. Report by J. Jequier on his visit to Guatemala and other Central American countries, presented at the meeting of the Presidential Council held on 16 September 1954 and at the plenary meeting of the Committee held on 7 October 1954 – ICRC Archives, B AG 225 086-003 and B AG 200 086-001.

\(^{65}\) Report by P. Jequier on his visit to Guatemala and other Central American countries, \textit{op. cit.} Note of 6 August 1954 from P. Jequier – ICRC Archives, B AG 225 086-001.
The number of inmates in the women’s prison stood at 65, including five political detainees. Their conditions of detention appeared satisfactory, although the political detainees complained that they were being held without charge.66

Following his visits, Jequier wrote a letter to the minister of the interior and justice, asking him to take urgent measures to reduce the overcrowding that plagued two of the three prisons.67 Most of the medical supplies handed over to the National Society by the ICRC were distributed in the prisons in Guatemala City, with the remainder sent to the south-eastern part of the country, where the fighting had taken place and where civilians required assistance.

Accompanied by members of the National Society and a government representative, Jequier travelled on 29 July by military aircraft – the rainy season having made the roads impassable – to the south-eastern cities of Zacapa and Chiquimula, where armed forces loyal to Castillo Armas were stationed. He visited the hospitals of both cities, which had just received medical supplies sent by the National Society and the ICRC, and their two prisons. Whereas the living conditions of the 240 inmates, including some 40 political detainees, in Zacapa appeared satisfactory, this was far from the case in Chiquimula where some 400 political detainees – out of a total prison population of 550 – were protesting dire conditions of detention conducive to the outbreak of epidemics. Jequier raised this issue with the local detaining authorities and wrote about it to the minister of the interior.68

Soon afterwards, Jequier read in the press that the minister of the interior had decided to transfer a number of detainees held in prisons in the capital and in Chiquimula to other places of detention to ease the overcrowding.69

Jequier abandoned the idea of visiting other prisons in the interior of the country owing to the difficulty of getting there. He also believed that the National Society, which was authorized to visit the prisons and was actively involved in assisting political detainees, could handle the situation alone. Moreover, a number of detainees had already been released, and more were about to be freed.70

Jequier left the country on 24 August 1954 and spent the next 15 days visiting the National Societies of El Salvador, Honduras, Nicaragua, Costa Rica, Panama and Mexico. He returned to Geneva in mid-September.

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66 Note of 20 July 1954 by P. Jequier on his visit to the women’s prison in Guatemala City – ICRC Archives, B AG 225 086-003.
68 Report by P. Jequier on his visit to Guatemala and other Central American countries, op. cit. Note of 30 July 1954 by P. Jequier on his visit to Zacapa and Chiquimula – ICRC Archives, B AG 225 086-003.
70 Note of 2 August 1954 by P. Jequier – ICRC Archives, B AG 220 086-001.
Conclusion

The ICRC’s action in Guatemala following the coup d’état – combined with an armed conflict – marked the first time in its history that the organization succeeded in providing direct protection and assistance for political detainees in Latin America. The impetus for this came from its president, Paul Ruegger, who was convinced that such action was crucial to the ICRC’s future in the region and who wished to create a precedent. After its operation in the country came to a close, the ICRC sought to publicize it, issuing a special offprint of an article on the subject published in the *Revue internationale de la Croix-Rouge.*

Costa Rica

Following presidential elections contested by the Costa Rican government, a rebellion led by José Figueres in March 1948 triggered a bloody civil war that claimed 2,000 lives in 40 days. At the end of the war, Figueres became head of a junta that governed the country for 18 months, during which he enacted economic and social reforms designed to bring about a stable democracy. As he had promised, Figueres then handed the reins of power over to the president chosen by the people. In 1953, he was elected president himself.

An anti-communist, Figueres was also an enemy of dictatorships. He was hostile to, among others, General Anastasio Somoza, president of Nicaragua, who had helped the armed forces backing the government in San José during the civil war. Somoza, for his part, blamed Costa Rica for not having prevented a plot to assassinate him hatched on its territory in April 1954.

In January 1955, “revolutionary” forces attempted to invade northern Costa Rica from Nicaragua but were pushed back. Somoza claimed to have nothing to do with these forces, which, according to him, were made up of Costa Ricans opposed to their own government. The fighting ended a month later.

Offer of services to the Costa Rican Red Cross

On learning of the events in Costa Rica, President Ruegger called for rapid action – if deemed necessary – following the example set by the ICRC in Guatemala. Unable to assess the situation from Geneva, the Presidential Council sent a telegram to the Costa Rican Red Cross requesting more information and offering the ICRC’s

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71 Message of 22 June 1954 from P. Ruegger, *op. cit.*
72 *RICR*, No. 430, October 1954, pp. 787–792.
assistance. In reply, the National Society asked for help in obtaining a medical aircraft and medical supplies from the American Red Cross. The ICRC offered to send a delegate to Costa Rica to oversee the implementation of the relevant provisions of the 1949 Geneva Conventions and to assist the Costa Rican Red Cross. With the consent of the National Society, Pierre Jequier, who had conducted the ICRC’s operation in Guatemala six months earlier, arrived in San José on 29 January 1955. On the same day, he held talks with representatives of the National Society, whose main activity in connection with the fighting was to evacuate the wounded from the front lines to the capital. As there were few roads in the area, the Society had obtained two aircraft, one civilian and one military, marked them with a red cross and used them as medical transport to evacuate the wounded from a small airport in La Cruz. This northern town near the Pacific coast and the border with Nicaragua had fallen into rebel hands before being taken back by government forces. The Costa Rican Red Cross had also appealed for blood donors and collected funds to purchase medicines. As a result, and with the fighting on the wane, it no longer needed help from the American Red Cross.

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50. Costa Rica

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76 Note No. 2 of 2 February 1955 by J. Jequier, op. cit.
Visits to detainees in Costa Rica

On 1 February 1955, Jequier, accompanied by officials from the Costa Rican Red Cross, was received by the minister of foreign affairs. Although Costa Rica had not yet acceded to the 1949 Geneva Conventions,\(^{77}\) the minister offered him every facility to visit detainees, in compliance with their provisions. According to the minister, there were no political detainees, only persons held in connection with “an attempt to invade the national territory.”\(^{78}\) The minister also asked the ICRC to look into the situation of Costa Rican nationals, whether military or civilian, who had been captured on Costa Rican territory by invading forces and were interned in Managua, Nicaragua.

The next day, Jequier visited 62 “prisoners of war” – as they were called by the detaining authorities – in San José’s central prison. These men had all been captured bearing arms during the fighting in the north of the country. Most of them were Costa Ricans who had been transferred to the capital within the previous two to ten days.

He also visited two civil-guard barracks, where seven people were being held – two “prisoners of war” and five political detainees.

Overall, the conditions of detention appeared satisfactory. The main request made by the detainees – submitted in writing to the minister of foreign relations – was permission to go out of doors once a day and to receive parcels from their families.

According to the authorities, there were no other “prisoners of war” or political detainees, all of whom had been transferred to the capital after their capture.\(^{79}\)

Jequier made a second visit to San José’s central prison in late February on his return from Nicaragua (see below). The prison housed about 100 “prisoners of war” and political detainees, all of whose cases had been submitted to the courts for investigation and trial. The inmates had also been transferred to new premises that were more spacious and better ventilated.\(^{80}\)

In early March, during a trip of several days to the interior of the country to visit National Society premises, Jequier met two “revolutionaries” who had just been arrested during an attempt to return home through the mountains. Since they were destitute, he was authorized to provide them with some relief purchased on the spot in La Cruz.\(^{81}\)

\(^{77}\) At the time, Costa Rica was party only to the 1906 Geneva Convention protecting the wounded and the sick. It had not signed the 1949 Geneva Conventions and did not accede to them until 15 October 1969.

\(^{78}\) Note No. 3 of 2 February 1955 by P. Jequier – ICRC Archives, B AG 201 057-001 and 225 057-001.

\(^{79}\) Note of 3 March 1955 by P. Jequier. Letter of 4 February 1955 from P. Jequier to the minister of foreign affairs, Mario Esquivel – ICRC Archives, B AG 225 057-001 and 251 057-001.

\(^{80}\) Note of 5 March 1955 by P. Jequier – ICRC Archives, B AG 225 057-001 and 251 057-001.

\(^{81}\) Note of 6 March 1955 by P. Jequier – ICRC Archives, B AG 251 057-001.
Visit to Nicaragua

Soon after Jequier’s arrival in San José, the authorities and the Costa Rican Red Cross had requested that the ICRC approach their counterparts in Nicaragua so that the two National Societies could collect the wounded and the dead in the vicinity of La Cruz. The Costa Rican Red Cross did not want to venture into the forest near the Nicaraguan border without knowing whether or not they might encounter armed “revolutionaries” or what the attitude of the Nicaraguan soldiers posted near the border might be.82

The ICRC put the question to the Nicaraguan Red Cross, which offered, with the backing of its government, to fully cooperate with the Costa Rican Red Cross.83 The latter subsequently ventured into the area, where it found no survivors, only dead bodies.

At the instigation of the Costa Rican Red Cross, which was determined to discharge its duty, the issue was taken up again by Jequier during his visit to Nicaragua from 9 to 19 February 1955. With the authorization of President Somoza – and at his request – Jequier travelled on 12 February with members of the Nicaraguan Red Cross to the border zone in order to meet with their counterparts from the Costa Rican Red Cross, on Costa Rican soil, and enable them to collect the dead bodies. Jequier, duly impressed by the place and the circumstances, wrote: “This meeting of the two Red Cross Societies on the border between their countries, under ICRC auspices, not only strengthened the cooperation evidenced by the exchange of telegrams (...) but highlighted the spirit of neutrality and mutual aid for which our emblem stands and the respect that its presence inspires.”84

However, the main purpose of Jequier’s visit to Managua was to visit Costa Rican nationals detained in Nicaragua. Jequier raised the matter with the vice-minister of foreign affairs, who authorized him to visit interned “revolutionaries”, namely, rebels who had been pushed back across the border into Nicaragua by Costa Rican forces. The vice-minister stated that authorization was being issued pursuant to the Third Geneva Convention of 1949 protecting prisoners of war, specifically Article 4(B)(2) relating to members of armed forces interned on the territory of a neutral or non-belligerent power.85

On 11 February, Jequier visited 90 “military internees” housed in a national-guard barracks in Managua and, two days later, some 20 sick and wounded internees who,

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82 Telegram of 31 January 1955 from P. Jequier to the ICRC. Report of 7 April 1955 by P. Jequier on his visit to Central America, op. cit. – ICRC Archives, B AG 251 057-001.
83 Unsigned note of 24 February 1955 on ICRC activities in connection with the events in Costa Rica – ICRC Archives, B AG 251 057-001.
thanks to the Nicaraguan Red Cross, had been transferred to a special section of the national-guard hospital in the capital. Jequier and the National Society provided them with basic hygiene items.\textsuperscript{86}

However, Jequier was not allowed to visit some 30 “non-revolutionary” Costa Ricans faithful to President José Figueres who had been captured and held in Nicaragua following recent events.\textsuperscript{87}

During his stay in Nicaragua, Jequier was also asked by various parties, including the country’s Red Cross, to look into the fate of Nicaraguan political detainees. Although the National Society was especially concerned about three of the detainees, who were sick and had been hospitalized, it did not want to run the risk of asking for permission to assist them. Faced with this sensitive issue, Jequier asked the liaison officer put at his disposal by the authorities to test the waters with the minister of foreign affairs before he broached the subject officially, assuming he was allowed to do so. The answer, received two days later, was negative.\textsuperscript{88}

\textsuperscript{86} Notes No. 10 and No. 13 of 20 February 1955 by P. Jequier. Report of 7 April 1955 by P. Jequier on his visit to Central America, \textit{op. cit.} – ICRC Archives, B AG 251 057-001.
\textsuperscript{87} Note No. 17 of 23 February 1955 by P. Jequier – ICRC Archives, B AG 251 057-001.
\textsuperscript{88} Note No. 18 of 23 February 1955 by P. Jequier. Report of 7 April 1955 by P. Jequier on his visit to Central America, \textit{op. cit.} – ICRC Archives, B AG 251 057-001 and AG 225 145-001.
**End of ICRC activities**

After returning to Costa Rica, Jequier left the country on 10 March 1955. On his way back to Geneva, he stopped off in Panama and Venezuela, where he met representatives of the Red Cross Societies of the two countries.

**Argentina**

Elected president of the Argentine Republic in February 1946, Juan Domingo Perón initially enjoyed broad popular support owing to various social and economic reforms that he put in place and to the enthusiasm generated by his wife, Eva Perón. However, in the early 1950s, the economy plunged into recession and the regime became increasingly totalitarian and repressive. A state of siege was declared in 1952, the year Eva Perón died, and opponents of the regime were rounded up and imprisoned.

In mid-June 1955, after Perón was excommunicated, a failed coup d’état was mounted by a group of air force and navy generals. The ensuing violence claimed hundreds of lives. Three months later, on 16 September 1955, Perón was finally removed from power by a new military coup.

Under the Perón regime, the Argentine Red Cross struggled merely to survive, most of its customary activities having been taken over by the Eva Perón Foundation.

**Vain attempt to assist political detainees**

In late 1954, the ICRC’s attention was drawn to the plight of political detainees in Argentina by Emil Sandström, president of the Swedish Red Cross and chairman of the United Nations International Law Commission.

Following the events of mid-June 1955 and at the instigation of its president, Paul Ruegger, the ICRC sought to obtain more information prior to launching an operation in Argentina. It was hampered, however, by the inertia of its two resident delegates in Buenos Aires and discouraged by the advice of a representative from the Swiss Ministry of Foreign Affairs in Bern not to intervene for the time being. In July, it nevertheless sent a letter to the Argentine minister of foreign affairs offering its services. It received acknowledgement of this offer in late August but nothing more.

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89 Minutes of the working session of the Committee held on 11 September 1952 and minutes of the meeting of the Commission for External Activities held on 26 May 1953 – ICRC Archives, A PV.
90 Letter of 20 December 1954 from E. Sandström to the ICRC – ICRC Archives, B AG 225 017-001.
91 Known at the time as the Département politique fédérale.
Following the removal of Juan Perón from office on 16 September and the ensuing outbreak of violence, the ICRC sent telegrams to the Argentine Red Cross and to the Red Cross Societies of two neighbouring countries, Chile and Uruguay. It appealed for compliance with the humanitarian principles set out in the Geneva Conventions and offered its assistance to the Argentine Red Cross, offering to send a delegate to the country. The Argentine Society replied that the provisions of the Conventions were being respected and that it would forward the ICRC’s message to the military junta. The Uruguayan Red Cross informed the ICRC that it had broadly publicized its message.93

On 27 September the ICRC’s resident delegates in Buenos Aires sent a telegram to the new minister of foreign affairs stating that they stood ready to undertake humanitarian activities where required but making no specific offers. Their aim was above all to obtain official recognition of the ICRC delegation in Buenos Aires by the new regime and to pave the way for future approaches, in particular concerning ratification of the Geneva Conventions.94

A general amnesty was declared in Argentina, only to be followed by a new spate of arrests. The ICRC reiterated its offer of assistance to the Argentine Red Cross. At the same time, it asked its two resident delegates in Buenos Aires to draw up a situation report, focusing on the plight of political detainees. Disappointed by the attitude of the delegates, who had repeatedly sought to sidestep issues that fell squarely within the ICRC’s mandate, it instructed them to find out whether the Argentine National Society was already providing aid for political detainees or whether it needed ICRC backing to do so.95

Since the Argentine minister of foreign affairs had met their telegram of 27 September with stony silence, the delegates considered that it was out of the question to ask for a meeting with him. They were also opposed to any measures being undertaken for political detainees, either by the ICRC or by the Argentine Red Cross – which, at the time, was being reorganized under government supervision. In their view, the authorities would reject such measures since nothing of the kind had been attempted for political detainees held under the previous regime. Lastly,

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93 Telegrams of 19 September 1955 from the ICRC to the Argentine, Chilean and Uruguayan Red Cross Societies. Telegrams of 21 September 1955 from the Argentine and the Uruguayan Red Cross Societies to the ICRC – ICRC Archives, B AG 225 017-001. Minutes of the meeting of the Commission for External Activities held on 20 September 1955 and minutes of the plenary session of the Committee held on 22 September 1955 – ICRC Archives, A PV. ICRC Annual Report 1955, p. 16.
94 Note of 29 September 1955 from J. de Chambrier and its annex, and letter of 23 September 1955 from the Swiss Ministry of Foreign Affairs to the ICRC – ICRC Archives, B AG 252 017-001.
they argued that nationalist sentiment was widespread and that any “interference” by a foreign or international organization would immediately come under attack from all sides.  

Given the opposition of its resident delegates in Buenos Aires, the ICRC abandoned its attempts to provide assistance in Argentina.

Conclusion

In the aftermath of the Second World War, the ICRC, faced with overwhelming needs in Europe and worried about its lack of financial resources, was unable to pay due attention to the spread of armed conflict and internal disturbances in many parts of Latin America.

By the 1950s, however, the situation had changed with the entry into force of Article 3 common to the 1949 Geneva Conventions and, especially, the concern displayed by ICRC President Paul Ruegger not only for the victims of armed conflict and internal disturbances but also for persons detained for political reasons unrelated to armed conflict.

Although the ICRC’s first attempts to assist such detainees in Latin America – in Venezuela, Bolivia and Argentina – met with failure, the organization succeeded over a six-month period in deploying its activities during two non-international armed conflicts, first in Guatemala and then in Costa Rica. In both cases, it provided support for the National Red Cross Societies concerned and fulfilled its mandate under Article 3 common to the four Geneva Conventions of 1949 as a specifically neutral organization. However, the ICRC was still a neophyte when it came to protecting and assisting political detainees, witness the somewhat superficial, cursory and highly sporadic nature of its visits to places of detention, not to mention the lack of crucial follow-up visits, particularly in Guatemala.

Moreover, the ICRC’s desire to visit political detainees, especially those held for reasons unrelated to armed conflict, ran up against the inertia displayed by the organization’s resident delegates. As the ICRC knew very well, the performance of these delegates in the region left much to be desired. It nevertheless kept them in place and even considered increasing their numbers while looking for ways to strengthen its contacts with them.

As for the role assigned to the National Red Cross Societies, which the ICRC urged to provide assistance for political detainees and behind which it sometimes hid, this was in keeping with the organization’s policy at the time.

96 Note of 9 November 1955 from J. de Chambrier and J. Roulet to the ICRC. Note of 22 December 1955 from P. Jequier – ICRC Archives, B AG 225 017-001 and 252 017-001.
98 Minutes of the working session of the Committee held on 21 January 1954 – ICRC Archives, A PV.
Beginning in 1952, the ICRC paid close attention to developments in the French colonies of North Africa that were to culminate in the outbreak of the Algerian War in November 1954. Meanwhile, the struggle for independence was gaining ground in Morocco and Tunisia.

The present volume examines the ICRC’s fruitless attempts to work in Tunisia and the activities that it carried out in Morocco. The organization’s operation in Algeria, which continued until 1963 and beyond, is taken up in Volume IV of the History of the International Red Cross.¹

Tunisia

Historical background

In Tunisia, claimed by the French as a protectorate in 1881, the nationalist movement began to emerge prior to the First World War. Repeatedly suppressed, it received a decisive boost in 1934 with the establishment of the Neo Destour Party headed by Habib Bourguiba.

After the Second World War, the struggle for independence intensified, especially following Bourguiba’s return from exile in September 1949. Positions hardened on both sides of the divide and, in mid-January 1952, the new French resident-general in Tunisia, Ambassador Jean de Hauteclocque, ordered the house arrest of Neo Destour’s main leaders. Bourguiba was sent to the city of Tabarka before being banished to the Galite islands in northern Tunisia.

Disturbances broke out simultaneously in northern Tunisia and in the Sousse region. The resident-general declared a state of emergency and authorized a search-and-sweep operation around Cap Bon. During this operation, conducted from late January to early February 1952 by French troops and members of the Foreign Legion, thousands of people were arrested and many were killed or wounded. Numerous

52. Tunisia
human rights abuses were committed, triggering a campaign of protests in both France and Tunisia.  

After several months of relative calm, violence flared up again with the assassination of Farhat Hached, secretary-general of the Tunisian General Labour Union (UGTT), on 6 December 1952.

In the second half of 1953, during which de Hauteclercque was replaced by another resident-general, France made some concessions that it considered a step on the road to self-government for Tunisia. The situation nevertheless continued to deteriorate. On 7 May 1954, the French defeat at Dien Bien Phu brought the First Indochina War to a brutal end, leading to the collapse of the French government and the appointment of Pierre Mendès France as prime minister one month later.

On 31 July 1954, with his country still reeling from the shock of defeat in Indochina, Mendès France promised to grant Tunisia self-governing status. The negotiations, which proved long and arduous, were further complicated by the rapid fall of the Mendès France government in February 1955. Finally, after a meeting between the new prime minister, Edgar Faure, and Habib Bourguiba, who had meanwhile been transferred from Galite to France, self-governing status was officially recognized under the Franco-Tunisian agreements of 3 June 1955.

However, a section of the Neo Destour Party opposed this compromise, which postponed full independence. Unrest broke out again, culminating in a rebellion by armed groups of Fellagha in the south and the resurgence of ancestral tribal clashes in the steppes. Bourguiba called in French forces, which quelled the violence in a matter of weeks.

The simultaneous deterioration of the situation in Algeria, a French territory divided into departments, nevertheless played into the hands of nationalists in the two French protectorates of North Africa. As a result, Tunisia gained full independence on 20 March 1956, shortly after Morocco.

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2 Results of a survey carried out on 5 February 1952 in the Cap Bon area by the Agricultural Board of Northern Tunisia and undated document drawn up by the UGTT (Tunisian General Labour Union) entitled La vérité sur les atrocités commises au cours des opérations militaires françaises dites de 'ratisages' en Tunisie – ICRC Archives, B AG 200 213-001.

3 Partisans combating the French colonial power.

4 This introduction is partly based on Jean Ganiage, Histoire contemporaine du Maghreb de 1830 à nos jours, Editions Fayard, 1994, pp. 444–558.
Abort attempt to provide aid

In February 1952, the ICRC received a dozen complaints about the violence unleashed during the search-and-sweep operation in Cap Bon, urging it to come to the aid of the victims.\(^5\)

The ICRC initially instructed its delegate in Paris, William H. Michel, to approach the French Red Cross informally and ask whether it could provide assistance in Tunisia.

Michel was simultaneously contacted by a representative of the UGTT in Paris, according to whom some 8,000 to 10,000 people were interned in camps in Tunisia where conditions were poor. The UGTT representative appealed to the ICRC to assist the internees and civilian victims of military repression, explaining that the French Red Cross mainly served French citizens in the protectorate and that it likely had scant contact with Tunisians, other than in a few clinics that were open to the local population.\(^6\)

The French Red Cross initially held back, offering merely to inform its branch office in Tunisia of the complaints sent to the ICRC and enquire as to whether any assistance was needed. For its part, the ICRC considered sending a delegate who had previously worked in North Africa to assess the situation on the spot, an idea that Michel conveyed to the French Red Cross at a second meeting. The delegate’s task, he said, would be to approach both the authorities and the groups that had appealed to the ICRC and explain to them that the French Red Cross in Tunisia was the appropriate channel through which assistance, if required, should be provided. He would also let them know that the ICRC was ready to act as an intermediary between those groups and the French Red Cross if necessary. Lastly, he would explain the structure of the International Red Cross and the respective roles of its different components.

To this, the president of the French Red Cross reacted with indignation. According to Michel, the latter considered “absolutely unacceptable that the ICRC should seek, by devious means, to deploy its activities on French soil at the expense of the National Society”. He threatened to “bring the matter to the attention of the National Society’s governing board at its next meeting, to alert the French government, and to lodge a complaint of interference in internal affairs with the French resident-general in Tunisia.”

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Tunisia and with the League of Red Cross Societies”. He further asserted that “it was out of the question to send an ICRC representative to Tunisia, a step that would only play into the hands of the enemy”.

Given the violence of this reaction, the ICRC, which had not yet clearly defined its role in internal disturbances, backtracked. In a letter to the French Red Cross outlining its position, the organization stated that, for the moment, it was merely seeking information. It also decided to send a delegate – Frédéric Siordet – to Paris in an effort to clear up any misunderstandings.

In a meeting with the French Red Cross, an agreement was reached that the ICRC would inform all those who had approached it that it had contacted the National Society, which was able to meet current needs, and that it was ready to pass on any information that might help the Society perform its tasks. The ICRC also agreed to withhold the letter that it was preparing to send to the French resident-general in Tunisia alerting him to its concerns.

This incident sent shock waves through the ICRC, prompting it to define more precisely the conditions under which it could act in internal disturbances. The guidelines that it subsequently approved in January 1953 stipulated, among other things, that it would refrain from stepping in wherever the Red Cross organization of the country concerned was able to act efficiently and was willing to do so.

**Offer of services turned down**

From March 1952 until the end of the year, the ICRC received no further complaints relating to Tunisia.

In early 1953, however, the organization learned from a press article that a delegation from the International Commission Against Concentration Camp Practices (CICRC) had been authorized to visit internment camps in Tunisia. The CICRC was headed by David Rousset, a former deportee and author of *L’univers concentrationnaire* (*A World Apart*). Michel took the opportunity to contact the French Red Cross once again, arguing that, since a visit to the camps had been deemed necessary and had been allowed, the task should logically fall to “the Red Cross”. This time, the president of the French Red Cross agreed that it was not up to his organization to undertake such a visit and withdrew his objection to sending an ICRC team to Tunisia.

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7 Minutes of the meetings of the Presidential Council held on 29 February and 6 March 1952. Note of 5 March 1952 by W. Michel on his meeting of the previous day with the French Red Cross. Note of 7 March 1952 by W. Michel on his meeting with the French Red Cross on 6 March 1952 and on a telephone call with Georges Brouardel, president of the French Red Cross, on 7 March 1952 – ICRC Archives, A PV and B AG 200 213-001.

8 Letter of 10 March 1952 from J. Chenèveière to G. Brouardel. Minutes of the meeting of the Presidential Council held on 29 February 1952, minutes of the working session of the Committee held on 13 March 1952 and minutes of the meeting of the Commission for External Activities held on 19 March 1952 – ICRC Archives, B AG 200 213-001 and A PV.

9 See p. 280 above.
Michel also met with David Rousset on his return from Tunisia. Rousset voiced his regret that the ICRC had not been present in the country in 1952, underscoring that it had been an extremely difficult period and pointing out that his organization had sought to visit the camps after receiving the same appeals that the ICRC had received, in particular from the UGTT.

Given the circumstances and aware that its failure to react had tarnished its image among Tunisians, the ICRC decided to send an urgent appeal to the French Ministry of Foreign Affairs in Paris for permission to visit prisons and internment camps in Tunisia.\(^ {10}\)

At the suggestion of the Ministry, Michel met on 6 March 1953 with the French resident-general in Tunisia, de Hauteclocque, who was visiting Paris. De Hauteclocque firmly objected to the idea of sending an ICRC team to Tunisia and stood his ground despite numerous attempts by Michel to persuade him otherwise.\(^ {11}\)

The ICRC, which continued to receive alarming reports on the situation in North Africa, decided to pursue its efforts regardless of the resident-general’s objection. On 22 April, Michel thus delivered a memorandum to the French Ministry of Foreign Affairs offering the ICRC’s services to visit persons interned in Tunisia and stressing the humanitarian nature of its activities.\(^ {12}\) The reply, which came one month later and was delivered orally, was a resounding ‘no’. Described by Michel in the following terms, it merely reiterated arguments already put forward by the resident-general:

No comparison can be made between the CICRC, which is a private body, and the ICRC, which is an official one.

The ICRC is an international organization and the French government has repeatedly stated that it would not authorize any such organization to carry out an investigation in Tunisia.

The French Red Cross, which is already on the spot, is fully qualified and equipped to provide any necessary relief for persons deprived of their liberty.\(^ {13}\)

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\(^ {11}\) Note of 6 March 1953 by W. Michel on his meeting with the French resident-general in Tunisia and note of 12 March 1953, op. cit. – ICRC Archives, B AG 200 213-002.

\(^ {12}\) Minutes of the meetings of the Presidential Council held on 12 and 26 March and 9 April 1953. Notes of 17 and 22 April 1953 by W. Michel and their annexes – ICRC Archives, A PV and B AG 200 213-002.

\(^ {13}\) Note of 28 May 1953 by W. Michel on his meeting that day at the Ministry of Foreign Affairs – ICRC Archives, B AG 200 213-002.
Michel asked the Ministry whether he could have the reply in writing and was told that, although this seemed unnecessary, it was possible if the ICRC made a formal request.

The ICRC decided, however, not to insist on a written reply. That way, it reasoned, the question would remain open and could be taken up again whenever circumstances permitted. It also decided to raise the Tunisian question at a meeting of experts on assistance to political detainees that it had convened for 9 June 1953.\textsuperscript{14}

There things remained for some time. During the second half of 1953, the French government adopted various measures of clemency mostly benefiting persons held under house arrest.\textsuperscript{15}

The ICRC took up the matter again at the end of June 1954, shortly after Pierre Mendès France was appointed prime minister and while the Fellagha were building up their forces. As it turned out, Michel was related to Mendès France through his wife.\textsuperscript{16} The ICRC, seeking to take advantage of this stroke of luck, asked Michel to raise the question of Tunisia with Mendès France, in a personal capacity, as soon as he had the opportunity to do so.\textsuperscript{17}

Shortly thereafter, the crisis seemed to abate. On 31 July 1954, Tunisia was granted self-governing status, negotiations were undertaken between the French authorities and the Neo Destour Party, and the Fellagha began to surrender in the north of the country.

Unrest continued to plague Morocco, however, and things took a turn for the worse in Algeria, where fighting in the Aures Mountains mirrored the violence raging in the Tunisian jebels.\textsuperscript{18}

In mid-November 1954, a member of the Committee held an informal exchange of views with the president of the French Red Cross – who seemed more open to action by the ICRC than he had been two years earlier\textsuperscript{19} – on the ICRC’s recent experience in Guatemala\textsuperscript{20} and on the conclusions of the 1953 meeting of experts on assistance to political detainees.\textsuperscript{21}

\textsuperscript{14} See pp. 283 ff. above. Minutes of the meeting of the Commission for External Activities held on 2 June 1953 and letter of 9 June 1953 from R. Gallopin to W. Michel – ICRC Archives, A PV and B AG 200 213-002.

\textsuperscript{15} Notes of 16 July and 4 November 1953 by P. Gaillard on Tunisia – ICRC Archives, B AG 200 213-002.

\textsuperscript{16} According to Pierre Gaillard, a former ICRC delegate interviewed between May and June 1992 by Paul Reynard, Pierre Mendès France and W. Michel had married two sisters, nées Sicurel, making W. Michel and Mendès France brothers-in-law – ICRC Archives, B AG 012/H.O.

\textsuperscript{17} Note of 18 June 1954 from P. Gaillard to the Commission for External Activities on the situation in Tunisia and minutes of the meeting of the same Commission held on 22 June 1954. Note of 24 June 1954 from P. Gaillard to W. Michel – ICRC Archives, B AG 200 213-002.

\textsuperscript{18} Minutes of a meeting between P. Gaillard and W. Michel held on 23 November 1954 and note of 8 December 1954 by P. Gaillard on nationalist unrest in the French colonies in North Africa – ICRC Archives, B AG 200 213-002 and B AG 200 004-001.

\textsuperscript{19} Note by J. Chenevière on his meeting of 16 November 1954 with G. Brouardel – ICRC Archives, D EUR FRANCE1-370.

\textsuperscript{20} See pp. 620 ff. above.

\textsuperscript{21} See p. 285 above.
With the situation worsening once again, the ICRC asked Michel to redouble his efforts in Paris and to submit an informal request concerning all French colonies in North Africa while it prepared a memorandum to that effect.\footnote{Minutes of the meeting of the Presidential Council held on 25 November and 16 December 1954. Note of 31 December 1954 from P. Gaillard to W. Michel and its annex, revised text of 31 December 1954 on internal disturbances – ICRC Archives, A PV and B AG 200 004-001. On the memorandum, see also p. 287 above.}

**Epilogue**

It seems that Michel first broached the possibility of ICRC action in North Africa with Pierre Mendès France during a family reunion held on 31 December 1954.\footnote{P. Reynard’s interview with P. Gaillard, *op. cit.*} At a meeting convened one month later, Mendès France asked Michel to send him a formal letter detailing the ICRC’s request and promised to give him a swift reply.\footnote{Note of 31 January 1955 by W. Michel on his meeting the same day with P. Mendès-France – ICRC Archives, D EUR FRANCE1-370.} Michel wrote Mendès France the very next day, asking that the ICRC be authorized to visit places of internment and detention in Algeria, Morocco and Tunisia and to carry out its traditional activities for persons arrested in connection with the events, and their families. In his reply of 2 February, Mendès France agreed to let the ICRC work in Algeria and Morocco but not in Tunisia.\footnote{Letter of 1 February 1955 from W. Michel to P. Mendès France and the latter’s reply of 2 February 1955 – ICRC Archives, B AG 200 004-001. The two letters are quoted extensively in Françoise Perret and François Bugnion, *De Budapest à Saigon: Histoire du Comité internationale de la Croix-Rouge 1956–1965*, Vol. IV, ICRC/Georg, Geneva, 2009 (English translation in press).} At their meeting in late January, Mendès France had told Michel that the situation in Tunisia no longer called for humanitarian action.

All in all, the ICRC’s attempts to work in Tunisia came to naught.

**Morocco**

**Introduction**

In Morocco, which had been a French protectorate since 1912, the nationalist movement began to take shape in 1930 with the establishment of the Moroccan Action Committee. During and after the Second World War, the cause of nationalism was championed by Istiqlal, a party headed by Sultan Mohammed ben Yussef. At a speech delivered in April 1947 in Tangier, ben Yussef declared himself the official leader of the Moroccan nationalist movement.

Meanwhile, numerous Moroccan officials whose interests were linked to those of the French colonizers threw their support behind the Pasha of Marrakech, T’hami El Glaoui, who held sway over the southern part of the country, where tribal leaders were still highly influential.
A power struggle ensued between the two sides: on the one hand, the royal palace and Istiqlal, and on the other, the French resident-general in Morocco\textsuperscript{26} and the Pasha of Marrakech and his followers.

On 8 December 1952, strikes called by the Moroccan General Union of Confederated Trade Unions (GUCTU) to protest the assassination of Tunisian unionist leader Farhat Hached degenerated into violence. In Casablanca, four Europeans were killed by an angry mob and dozens of demonstrators were slain by police forces.\textsuperscript{27} Two days later, the police rounded up political activists and unionists, arresting 400 militant members of Istiqlal, the Communist Party and GUCTU, and placing 112 others under house arrest in southern Morocco. At the same time, the authorities suppressed all major nationalist newspapers.

El Glaoui and his supporters took advantage of the nationalist rout to demand that ben Youssef be deposed and replaced by his cousin Moulay Mohammed ben Arafa, an older man who was considered more docile. Ben Youssef was forced into exile in Corsica, before being transferred to Madagascar five months later, and ben Arafa was enthroned on 24 August 1953, with the consent of the French.

\textsuperscript{26} The post of resident-general was held by General Alphonse Pierre Juin from May 1947 to September 1951.

\textsuperscript{27} The number of Moroccans killed in the clashes was estimated at between 38 and 151. The most realistic figure seems to be around 100, as advanced by Charles-André Julien in \textit{Le Maroc face aux impérialismes: 1415–1956}, Editions J.A., Paris, 1978, p. 258.
Contrary to his predecessor, the new sultan welcomed every project submitted by France and, in September 1953, gave his stamp of approval to reforms introducing the principle of joint sovereignty advocated by the resident-general.

After a short respite, violence broke out again in late 1953 and spread rapidly following the French defeats in Indochina and the declaration of Tunisian self-government on 31 July 1954. During the first three weeks of August, cities throughout northern Morocco became virtual battlegrounds.

One year later, on 14 July 1955, a bomb exploded in front of a café in Casablanca, killing six Europeans and wounding more than 30 others. This attack triggered three days of rioting by European residents that claimed 60 more lives (55 Moroccans and five Europeans) and wounded 276 people (218 Moroccans and 58 Europeans).\(^\text{28}\)

On 20 August, almost two years to the day after ben Yussef had been deposed, rioting broke out in the city of Khenifra, spreading to Oued Zem, where Berber tribes attacked the European quarter. The violence, which culminated in a killing spree, sparked further clashes in the mining centres of Aït Ammar, north-west of Oued Zem, and in Khouribga.\(^\text{29}\) Dozens of Europeans lost their lives in a span of two days after Berber officials rallied around ben Yussef. The army, called in to quell the rioting, massacred at least 700 people and possibly thousands.\(^\text{30}\)

This bloodbath did not stop France, bogged down as it was in the Algerian War and thus seeking a political solution in Morocco, to engage in consultations with representatives of various Moroccan factions at a meeting held in Aix-les-Bains from 22 to 27 August 1955. This led to an agreement to depose ben Arafa, form a Council of the Throne entrusted with setting up a transitional government and return ben Yussef, whose support was needed, to France. Ben Arafa agreed to leave for Tangier, and El Glaoui, already deserted by most of his backers, resigned himself in late October to ben Yussef’s return to power. The French minister of foreign affairs, Antoine Pinay, began negotiations with ben Yussef, now living in Saint-Germain-en-Laye, which resulted on 6 November 1955 in the Declaration of La Celle-Saint-Cloud and paved the way for independence.

On 16 November 1955, ben Yussef returned to Morocco, where he was greeted by cheering crowds, to form a new government. Further negotiations begun in Paris on 15 February 1956 led, on 2 March, to a Franco-Moroccan declaration ending the protectorate and solemnly proclaiming the country’s independence. In 1957, the sultan took the title of King Mohammed V and the Sherifian Empire became the Kingdom of Morocco.\(^\text{31}\)

\(^\text{28}\) Charles-André Julien, op. cit., p. 427.
\(^\text{29}\) Towns situated east of Casablanca towards the Atlas Mountains.
\(^\text{31}\) On 7 April 1956, Spain relinquished its protectorate over the areas under its administration. In October 1956, the city of Tangier, which had recovered its international status in 1947, was also returned to Morocco. The above introduction to the history of Morocco is based on J. Ganiage, op. cit., pp. 534–544 and 558–561, and Charles-André Julien, op. cit.
**Prelude to action**

In April 1953, the ICRC received from its delegate in Paris, William H. Michel, an issue of the journal *Cahiers du témoignage chrétien* devoted to the Moroccan question, in which the French author François Mauriac demanded that an investigation be carried out into the bloodshed in Casablanca on 8 December 1952.  

Three months later, Michel sent the ICRC a list of political detainees held in Morocco, whose numbers had reportedly risen after the incident to over 4,000, although some of them had since been released. According to the document, handed over to Michel by a French citizen with close North African connections: “Some 1,050 political detainees are being held in Casablanca alone (...). All were tried in less than 24 hours, having been denied the benefit of an investigation and the right to a lawyer, and all were convicted and sentenced to various prison terms by the pasha’s court. Another 73 persons, leaders and members of Istiqlal or of the General Union of Confederated Trade Unions are being held in preventive detention at Casablanca’s civilian prison.”

After the sultan was deposed in late August 1953, the ICRC realized that disturbances in Morocco had become endemic, with clashes breaking out between ben Youssef’s supporters and the rest of the pro-independence movement, on the one hand, and the French authorities and the backers of the Pasha of Marrakech, on the other. It did not, however, raise the issue with the French government, probably because of the latter’s refusal to accept its offer of services in Tunisia.

During the second half of 1954, faced with the mounting violence and a growing number of attacks, the ICRC asked Michel to broach the question of Morocco informally with the French prime minister, Pierre Mendès France.

**Visits to places of detention**

On 2 February 1955, at Michel’s request, Mendès France authorized the ICRC to visit places of detention in Algeria and Morocco.

Following preparatory meetings held by Michel in mid-February in Rabat and Casablanca, an ICRC team composed of two delegates, Pierre Gaillard and Jean-Pierre

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32 Note of 10 April 1953 by W. Michel and its annex – ICRC Archives, B AG 200 130-001.
33 Far more than the official figure of some 400 political detainees given in a statement by the French resident-general.
36 Minutes of the meeting of the Commission for External Activities held on 3 August 1954 – ICRC Archives, A PV.
Maunoir, and a medical doctor, Alain Daulte, travelled to Morocco on 23 February 1955. By 30 March, they had covered a total distance of 7,000 kilometres and visited 41 places of detention, namely:

- 15 police stations and security posts, where detainees were in principle kept only a short time;
- 11 civilian jails or small regional centres holding detainees sentenced to no more than three months’ incarceration, those in transit and those held pending investigation;
- 12 civilian prisons run by the French;
- three centres for political detainees held in administrative detention.

Altogether, these places of detention held a total of 9,000 prisoners, including at least 2,000 political detainees, i.e. persons accused or convicted in connection with the events, and 36 persons held in administrative detention. The latter were mainly leaders of Istiqlal and of the Democratic Independence Party who had been deprived of their liberty by decision of the political section of the Ministry of the Interior in Rabat.

The ICRC delegates were allowed to hold private interviews with convicted prisoners and with persons held in preventive detention under the authority of the French judiciary, the military courts or Sherifian law, and with those held in administrative detention.

Generally speaking, and to the extent that they could judge on the basis of a single visit, the delegates deemed the conditions of detention relatively satisfactory, with the exception of overcrowding in the prisons of Casablanca, Rabat and Oujda. However, they noted that some detainees held in administrative detention were despondent after years of captivity. They also received testimonies, although less systematically than in Algeria, from detainees alleging that they had “been subjected to ill-treatment or torture during their detention by police or while under interrogation”.

At the end of May 1955, the ICRC submitted to Edgar Faure, the French prime minister, a general report on its visits to places of detention in Morocco and Algeria from 28 February to 18 April 1955.

In Morocco, the ICRC’s recommendations mainly concerned the need to ease overcrowding in the prisons of Rabat, Casablanca and Oujda (which held almost twice as many inmates as their official capacity allowed), treat contagious diseases and facilitate family visits for administrative detainees held in remote internment centres in the southern part of the country. The ICRC also noted that “while our delegates were able to assess the conditions of detention in prisons and internment centres,

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which they deemed on the whole satisfactory, they were unable to do so for suspects held pending investigation (...) as they were not allowed to see anyone detained in connection with the events during their visits to police stations and security posts.”

Despite numerous requests, the ICRC was not allowed to repeat its visits to places of detention in Algeria or Morocco until the latter country gained its independence on 2 March 1956. At most, the ICRC’s resident delegate in Casablanca was able to ask the detaining authorities whether steps had been taken to ease the overcrowding, especially in Rabat and Casablanca. This was critical as further arrests had been made during rioting in Casablanca on 14 July 1955 and in the French mining centres towards the end of August.

In November 1955, mutinies broke out in the prisons of Marrakech and Casablanca. Four inmates died and six were seriously wounded in Casablanca. As a result, the ICRC delegate repeatedly urged the authorities to take measures to ease the overcrowding in Casablanca. The authorities soon informed him that a partial amnesty had been approved, which would reduce the prison population to a more manageable level. Then, in mid-December, the new Moroccan government decided to release all Moroccan political detainees.

With the situation continuing to deteriorate across North Africa, the ICRC had decided in early September 1955 to approach the leaders of nationalist groups, first contacting Hassan al-Wazzani, secretary-general of the Democratic Independence Party of Morocco and a member of the Committee for the Liberation of the Arab Maghreb, in Lausanne, Switzerland. The ICRC’s aim was twofold: to inform al-Wazzani of the organization’s activities in Morocco and to draw his attention to the need for compliance with the provisions of the 1949 Geneva Conventions, especially those protecting civilians.

Although the ICRC pursued its efforts to contact nationalist groups in Algeria, it dropped them in Morocco, where an independent national government had been formed.

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41 In Algeria, ICRC visits resumed in May 1956.
43 Notes of 25 November and 17 December 1955 from C. Vautier to the ICRC – ICRC Archives, B AG 225 130-001.
44 Minutes of the meeting of the Presidential Council held on 1 September 1955 and minutes of the meeting of 6 September 1955 between P. Gaillard and H. al-Wazzani – ICRC Archives, A PV and B AG 200 004-001.
Conclusion

The ICRC was never able to assist victims of the violence that beset Tunisia prior to the country’s independence in 1956. This failure clearly reflects the many obstacles that were placed in the organization’s way at the time by colonial powers and their National Red Cross Societies, among others the French Red Cross.

The ICRC’s experience in Tunisia also points to the organization’s uncertainty in 1952 regarding the role it was to play during internal disturbances, for which it did not yet have clear guidelines. At the same time, it ushered in major developments for the ICRC, especially the adoption of new policies applicable to similar situations in the future. The ICRC moreover drew important lessons from its failure in Tunisia that paved the way for its activities in Morocco and especially in Algeria, where the disturbances degenerated into all-out war.

Lastly, the ICRC’s difficulties in Tunisia and Morocco – as in Indochina – made the organization keenly aware of the critical importance of establishing relations with “rebel” movements.45

In the Middle East, the ICRC attempted – unsuccessfully – to assist political detainees in Egypt and Syria. It also strove to discharge its mandate in the dispute that arose between Saudi Arabia and the United Kingdom over the Buraimi Oasis in the 1950s. This dispute, which led to armed clashes and a military blockade, was neither an internal armed conflict nor a situation of internal disturbances, and it involved no political detainees. It more closely resembled an international armed conflict – albeit one of low intensity in which the two States concerned maintained diplomatic ties while holding peace talks.

The steps taken by the ICRC in this region are of interest for two reasons: first of all, they were part of a concerted effort by the organization to extend its activities in the Middle East beyond the role it played during the conflict between Israel and the Arab States; and secondly, it sheds light on the ICRC’s approach to political detainees in Syria.

Dispute over the Buraimi Oasis

In the early 1950s, oil deposits were discovered in the Buraimi Oasis, a region situated between the Emirate of Abu Dhabi, Saudi Arabia and the Sultanate of Muscat and Oman, where international borders had not yet been clearly drawn. This bonanza set off a dispute over sovereignty between the States concerned.¹

By 1952, a Saudi garrison of some 40 men had occupied Hamasa, one of 10 villages in the oasis. Seven of these villages were administered by Abu Dhabi and the other three, including Hamasa and Buraimi, by Muscat and Oman.² The emir of Abu Dhabi and the sultan of Muscat and Oman, whose territories were British protectorates,³ both appealed to the United Kingdom for assistance.

¹ Today, the Buraimi Oasis straddles the border between the United Arab Emirates (UAE) and Oman, with the city of Al Ain (in the Emirate of Abu Dhabi) on the UAE side and the city of Buraimi on the Omani side.
² According to statements made by the British and mentioned by A. de Cocatrix in his report on his visit to the Buraimi Oasis from 28 June to 19 July 1954 – ICRC Archives, B AG 231 016-001.
³ The Sultanate of Oman gained its independence from the United Kingdom in 1971. As for the Emirate of Abu Dhabi, it joined the Federation of the United Arab Emirates, which was established at the end of that same year.
Within a year, the British had set up a blockade around Hamasa – strengthened in April 1954 – in order to dislodge the Saudi emir and his garrison and to hinder contact between them and the nearby Bedouin tribes.

**Appeal to the ICRC**

On 10 June 1954, the ICRC received a telegram from a Saudi doctor posted in Hamasa seeking to draw its attention to the dire consequences of the 15-month siege, including malnutrition, especially among children, and a lack of medicines to treat the sick and the wounded. He urged the ICRC to send food and medical supplies. A few days later, two diplomats from the Saudi embassy in Paris travelled to ICRC headquarters in Geneva to discuss the situation and request help in bringing aid in through the blockade.

At the time, ICRC delegate Albert de Cocatrix was in Cairo preparing to leave on a tour of the Middle East. The ICRC therefore instructed him to meet with the

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4 Telegram of 10 June 1954 from Dr Nagi Na’amani to the ICRC. Na’amani sent two more telegrams to the ICRC on 21 and 25 June 1954 – ICRC Archives, B AG 231 016-001.


Saudi authorities in Jeddah as rapidly as possible to obtain more information on the events unfolding in the Buraimi Oasis. He was to continue on to Bahrain and request British permission to carry out a survey of needs in Buraimi. If necessary, he was to arrange for relief to be carried in through the blockade and to supervise its distribution.

**ICRC survey**

De Cocatrix was received by the Saudi authorities in Jeddah on 27 June 1954. In order to hasten the delivery of relief to the 3,000 inhabitants of Hamasa, the Saudis offered to provide the ICRC with an aircraft registered in its name and bearing its logo. The delegate, following instructions from Geneva, insisted on first contacting the British authorities for permission to enter the village and assess the situation. The Saudis agreed to this plan.

After a stopover in Bahrain, where local British officials consulted London before authorizing him to continue his trip, de Cocatrix boarded a Royal Air Force flight bound for Sharjah, a city near Dubai. There, he spoke with British officials, who outlined the situation in the oasis.

The blockade had been set up on the territory of Abu Dhabi by troops recruited on the spot and placed under the command of a British captain. Hamasa was encircled by these troops on three sides, the fourth side being held by the sheikh of Buraimi, a village situated in Muscat and Oman, next to Hamasa. The aim of the blockade, according to the British, was to prevent the Saudi emir from handing out money and gifts to the Bedouin chieftains in a bid to rally as many people as possible to his cause and enable the authorities in Jeddah to lay claim to territory whose borders were as yet ill defined. As the British did not wish to deprive the “authentic” (indigenous) residents of Hamasa of food, they had arranged with the sheikh of Buraimi to allow people to fetch supplies once a week in the village. However, when the British realized that people were buying far more than they needed and that numerous “visitors” had forced the blockade and were being welcomed by the emir, they decided to impose strict rationing. This led to a disagreement over the number of residents – the sheikhs of Hamasa estimated the number at 3,000 and the British placed it at 200 to 300. A consignment of medicines was nevertheless sent by the British in response to the appeal by the doctor in Hamasa.

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7 Minutes of the meetings of the Presidential Council held on 18 and 24 June 1954. Note of 18 June 1954 from the ICRC to A. de Cocatrix sent via the Swiss Federal Department of Foreign Affairs – ICRC Archives, A PV and B AG 231 016-001.
10 Report by A. de Cocatrix on his visit to the Buraimi Oasis, op. cit. – ICRC Archives, B AG 231 016-001.
On 6 July, de Cocatrix boarded a French Air Force flight bound for the village of Buraimi. There, he was met by the doctor from Hamasa – who made no objection to the presence of British officials – and by villagers and Bedouins gathered around their respective sheikhs. The group was taken to meet the Saudi emir:

The emir received us with great ceremony, having ordered a 40-man guard of honour to stand at attention as we passed (...). Dr Na’amani spoke a few customary words of welcome and then took us on an inspection tour of the village. We entered several homes and were impressed with how clean and tidy they were. Every surface, however, whether inside or outside the houses, on cars or along the road, was pockmarked with bullet holes, testifying to rapid and repeated gunfire. We were introduced to people recovering from wounds and others who had lost relatives. Still others stepped forward to tell us of their misfortunes. Meanwhile, children swarmed around us, repeating in unison: ‘Food! Food!’ Lastly, a group of female mourners arrived, wailing loudly. Our visit ended at the souk (...), which had been shut down. A few shops were opened up so that we could witness their bare shelves.11

De Cocatrix spoke with both the doctor and the emir. The British officials, the sheikh of Hamasa and the Bedouin sheikhs – whose tribes had been living for two years in tents pitched near the village – attended the meeting with the emir. Many of the questions raised were of a political nature, and the ICRC delegate had to repeatedly explain that his role was limited to the distribution of food and medicines.

After his return to Sharjah, de Cocatrix received assurances from the British authorities that they would provide Hamasa with medicines and allow the sick and the wounded – as long as they were indigenous villagers – to be taken to the hospital in Dubai and brought back to Hamasa. The distribution of food continued to be held up, however, by disagreement over the number of residents, although each side had made some concessions (the emir of Hamasa now put the number at 2,000 and the British at 700).

De Cocatrix concluded that the situation was less dire than the doctor in Hamasa had initially described.12 He voiced this opinion to the Saudi minister of foreign affairs in Jeddah, where he arrived on 15 July, whereupon the minister informed him that British troops had again fired on the villagers after the delegate had left, killing two people and wounding eight others. Moreover, the British were still blocking the delivery of food. He therefore asked de Cocatrix to return to Hamasa.

The following day, after King Ibn Saud had made the same request, de Cocatrix decided to return to Geneva for consultations before taking further action.13 After

11 Ibid.
12 Ibid. and telegram of 8 July 1954 from A. de Cocatrix to the ICRC – ICRC Archives B AG 231 016-001.
talking with him, the ICRC decided to grant the Saudi request and sent de Cocatrix back to Hamasa to supervise the distribution of food and medicines.\footnote{Minutes of the meeting of the Presidential Council held on 22 July 1954 – ICRC Archives, A PV.}

A few days later, on 24 July, the ICRC received word from the doctor in Hamasa that a distribution of food had finally taken place – but only enough to cover the needs of some 300 people.\footnote{Telegram of 24 July 1954 from Dr Na’amani to the ICRC – ICRC Archives, B AG 231 016-001.}

**Delay**

De Cocatrix was back in Cairo on 24 July, but his visa for Jeddah was not ready, a delay that was apparently due to negotiations under way between the Saudis and the British, which led on 30 July to the signing of an arbitration agreement.\footnote{A copy of the agreement is kept in Geneva – ICRC Archives, B AG 200 016-001.}

The ICRC delegate subsequently received a green light to proceed to Jeddah, where he was met in early August by the Saudi authorities. They again asked him to return to Hamasa to supervise the distributions – which, according to them, were still being held up by the British – until the withdrawal of all troops, planned for the end of August. The British ambassador in Jeddah, however, claimed that the agreement had obviated the need for ICRC assistance and that he was in no position to grant – or, for that matter, to deny – the ICRC access to Hamasa. De Cocatrix, unable to make any headway, asked headquarters what he should do.\footnote{Note of 28 July and telegram of 5 August 1954 from A. de Cocatrix to the ICRC – ICRC Archives, B AG 231 016-001.} On 6 August, the ICRC instructed him by telegram to return to Buraimi, after collecting all necessary authorizations, and to confine his activities there to ensuring the fair and equitable distribution of relief. As for the agreement of 30 July, it was to be implemented by the parties and fell outside the ICRC’s purview.\footnote{Telegram of 6 August 1954 from the ICRC to A. de Cocatrix. Notes of 6 and 19 August 1954 by A. de Cocatrix – ICRC Archives, B AG 231 016-001.}

Three days later, the ICRC learnt that its telegram had failed to reach de Cocatrix, who supposedly could not be found at his hotel in Jeddah. After a vain attempt to reach him in Bahrain, the ICRC sent another telegram to Jeddah on 23 August. Meanwhile, the ICRC contacted the Saudi embassy in Paris, which again urged it to send its delegate to Buraimi.\footnote{Minutes of the meeting of the Commission for External Activities held on 9 August 1954. Letter of 17 February 1955 from the Swiss postal services to the ICRC. Telegram of 23 August 1954 from the ICRC to A. de Cocatrix. Minutes of the telephone conversation of 23 August 1954 with the Saudi Embassy in Paris – ICRC Archives, A PV and B AG 231 016-001.}

On 24 August, de Cocatrix finally received both the first and the second telegrams, which had apparently been held up by the Saudi postal services.\footnote{Telegram of 6 August 1954 from the ICRC to A. de Cocatrix. Notes of 6 and 19 August 1954 by A. de Cocatrix – ICRC Archives, B AG 231 016-001.} By that time, however, the Saudi authorities no longer needed him in Buraimi as the British had
ceased to obstruct the distribution of relief. The Saudis attributed the British change of heart to the prospect of an ICRC visit.  

In late August, de Cocatrix was received by Emir Faisal, the Saudi prime minister and minister of foreign affairs, who conveyed his gratitude to the ICRC for its efforts. The delegate seized the opportunity to discuss Saudi Arabia’s position on adherence to the 1949 Geneva Conventions and on the establishment of a National Society.

**Conclusion**

Along with the role it played during the Palestine War and its aftermath, the ICRC’s action in connection with the Buraimi dispute, conducted at the request of Saudi Arabia, was among the first steps taken by the organization to discharge its mandate in the Arab countries of the Middle East after the Second World War. Although the ICRC did not ultimately launch a bona fide operation there, its presence – in the opinion of the Saudi authorities themselves – helped bring Saudi Arabia into the “Red Cross fold”.

As for the ICRC’s approach, it was characterized by obvious restraint towards the British government. The organization preferred to ask its delegate to get the necessary authorizations from local British authorities than to make representations directly to London. It relied heavily on discretion and pragmatism to achieve its aims, no doubt for fear that an official offer of services would be turned down or, worse, might jeopardize ratification of the Geneva Conventions by the United Kingdom. Its timid approach in relation to the Buraimi dispute more closely resembled appeasement or mediation than a traditional aid operation.

**Egypt**

**Appeal on behalf of the Muslim Brotherhood**

In the wake of the failed attempt on the life of Prime Minister Gamal Abdel Nasser on 26 October 1954, the Egyptian authorities cracked down on the Muslim Brotherhood, forbidding its activities.

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25 The UK ratified the Geneva Conventions on 23 September 1957.
A religious movement founded in Egypt in 1928 by Hassan al-Banna, the Muslim Brotherhood advocated a return to an archaic version of Islam that was based solely on the Koran and on the hadiths and that rejected any Western moral influence. Its popularity spread rapidly, first in Egypt and then – after the creation of a Palestinian branch and the participation of numerous militants in the 1948 war against Israel – throughout the other Arab nations in the Middle East. By 1940, the Brotherhood had acquired a secret armed wing. Before and after Hassan al-Banna was murdered in 1949, it perpetrated terrorist attacks and its own brand of political assassinations.

On 16 December 1954, the head of the Syrian branch of the Muslim Brotherhood asked the ICRC to intercede on behalf of its members detained in Egypt and their families, who had lost their breadwinners.\(^{26}\)

The ICRC decided to send Albert de Cocatrix to Cairo to discuss the matter with the government and the Egyptian Red Crescent Society. It advised him to base his arguments on the conclusions of the 1953 Commission of Experts for the Examination of the Question of Assistance to Political Detainees and on the memorandum on internal disturbances adopted by the ICRC on 16 December 1954 in connection with events in North Africa and Kenya.\(^{27}\) The ICRC provided de Cocatrix with a letter of introduction to Colonel Nasser, which did not specify the purpose of his visit.\(^{28}\)

Meanwhile, it instructed its delegate in Beirut, Georges Burnier, to meet with the leader of the Syrian branch of the Muslim Brotherhood in Damascus. During that meeting, which took place on 5 January 1955, the leader of the Syrian branch expressed grave concern over the situation of the Muslim Brotherhood in Egypt, including the fate of some 8,000 members who had been detained. He asked Burnier to visit the prisons where they were being held, seek improvements in their conditions of detention and provide their families with material aid. Following the meeting, Burnier sent a note to the ICRC describing the virulent campaign being waged by the Damascus-based Brotherhood against the Egyptian government – and recommending the utmost caution.\(^{29}\)

As for de Cocatrix, he was in Cairo for the official purpose of emptying out the former ICRC delegation\(^{30}\) but also in an attempt to gather more information on the Muslim Brotherhood. He discussed the idea of ICRC action with the Egyptian Red Crescent and influential members of Egyptian society but received contradictory responses. He therefore asked the ICRC to send him a telegram – worded in such a way that it could, if necessary, be shown to the Egyptian authorities – informing

\(^{26}\) Telegram of 16 December 1954 from Mustafa Sibai, president of the executive office of the leadership of the Muslim Brotherhood, to the ICRC – ICRC Archives, B AG 225 065-002.01.

\(^{27}\) See pp. 287 and 642 above. Minutes of the meeting of the Presidential Council held on 23 December 1954 – ICRC Archives, A PV.

\(^{28}\) Letter of 30 November 1954 to Colonel Nasser from the ICRC president – ICRC Archives, B AG 225-002.01.

\(^{29}\) Note of 6 January 1955 from G. Burnier to the ICRC – ICRC Archives, B AG 225 065-002.01.

\(^{30}\) The ICRC closed down its delegation in Cairo at the end of 1952.
him of the request made by the Muslim Brotherhood and asking him to deal with the matter before returning to Geneva.\footnote{Note of 8 January 1955 from A. de Cocatrix to the ICRC – ICRC Archives, B AG 225 065-002.01.}

The ICRC wrote to him along these lines, asking him to examine with the Egyptian authorities the possibility of organizing a relief operation for detained members of the Muslim Brotherhood and their families.\footnote{Minutes of the meeting of the Commission for External Activities held on 18 January 1955. Telegram of 19 January 1955 from the ICRC to A. Cocatrix – ICRC Archives, A PV and B AG 225 065-002.01.}

On 20 January, de Cocatrix put the question to the Revolutionary Council and then, on its advice, to the Ministry of Foreign Affairs. Three weeks later, he was summoned by an official from the Ministry who told him that the Egyptian government “did not wish to discuss the matter further”.\footnote{Report by A. Cocatrix on his visit to Egypt appended to the minutes of the meeting of the Commission for External Activities held on 22 February 1955 – ICRC Archives, A PV.}

In December 1955, the ICRC’s deputy executive director, David de Traz, on a tour of the Middle East, was strongly criticized by the Egyptian Red Crescent over de Cocatrix’s attempt to assist the Muslim Brotherhood. The National Society went so far as to say that, by the time of his departure, de Cocatrix was considered \textit{persona non grata}. De Traz chose not to pursue the matter as it was clearly taboo, especially at a time when the ICRC was striving to ensure compliance with the provisions of the Geneva Conventions protecting prisoners of war in connection with a resurgence of armed clashes between Israel, on the one hand, and Egypt and Syria, on the other.\footnote{Note of 7 December 1955 from D. de Traz to the ICRC – ICRC Archives, B AG 251 139-002.01.}

\textbf{Syria}

\textit{Appeals for assistance to political detainees}

On 22 April 1955, the deputy chief of staff of the Syrian army was assassinated in Damascus by a non-commissioned officer who then committed suicide. This incident was followed by a wave of arrests among members of the Syrian Social Nationalist Party (SSNP), to which the assassin belonged.\footnote{Right-wing party in favour of establishing a Greater Syria comprising Syria, Iraq, Jordan and Lebanon.}

A few weeks later, as part of a campaign launched by a Lebanese journalist living in Beirut, the ICRC received a series of telegrams from Syrian groups in Lebanon, the United States and a number of Latin American and African countries. The journalist in question was a militant SSNP member, and his campaign was aimed at denouncing the alleged ill-treatment of detainees from his party. The telegrams urged the ICRC to ask the Syrian authorities to authorize a doctor to give the detainees medical examinations.
The ICRC asked its delegate in Beirut, Georges Burnier, to contact the Lebanese journalist. Burnier was then to proceed to Damascus and request permission to visit the detainees. In its note to the delegate, the ICRC tied this request to the conclusions of the 1953 Commission of Experts for the Examination of the Question of Assistance to Political Detainees and the organization’s recent activities for political detainees in Cairo and in Guatemala, Costa Rica, Nicaragua, Greece, Algeria and Morocco.

In mid-May, the ICRC received a terse telegram from Burnier saying that he could not undertake the assignment. In the absence of further information, the ICRC postponed its representations to the Syrian Legation in Bern. Shortly thereafter, the ICRC received a more explicit note from Burnier stating that its initiative was ill-considered or, at the very least, premature. He pointed out that, following criticism levelled at it, the Syrian government had sent a commission of three medical doctors to visit the detainees and they had found no evidence of ill-treatment. Burnier also stressed that a murder had been committed and was under investigation and that nothing should be attempted until a verdict had been handed down. If, after that, Damascus took advantage of the situation to keep innocent SSNP members behind bars, the ICRC could then – and only then – refer to them as political detainees. Burnier did not attempt to hide his distrust of the Lebanese journalist who had engineered the campaign, and he deplored the fact that the ICRC had given the latter a reply that was, in his view, encouraging.

Overall, Burnier reproached the ICRC for failing to take the situation seriously, and he handed in his resignation on the grounds that he did not wish to stand in the way of the ICRC’s “new policies.”

The Swiss Legation in Beirut, whose advice the ICRC had sought, confirmed that a court decision appeared imminent. It added that the Syrian government had publicly authorized families to visit the detainees, and it warned the ICRC that the authorities were highly sensitive to and suspicious of anything that smacked of foreign intervention.

As a result, the ICRC confined itself to asking the Syrian Arab Red Crescent to what extent and in what manner the Swiss organization could assess the conditions of detention and ascertain whether basic moral and material standards were being upheld, in conformity with the fundamental humanitarian principles enshrined in the

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36 See pp. 285 ff. above.
37 Note of 9 May 1955 from J. Chenevière to G. Burnier. Minutes of the meeting of the Presidential Council held on 12 May 1955 – ICRC Archives, B AG 225 200-001 and A PV.
38 Telegram of 14 May 1955 from G. Burnier to the ICRC. Note of 17 May 1955 prepared by P. Gaillard for delivery to the Syrian Legation in Bern. Minutes of the meeting of the Presidential Council held on 18 May 1955 – ICRC Archives, B AG 225 200-001 and A PV.
39 The ICRC had told the journalist that it would give due consideration to his telegram.
Geneva Conventions. In an effort to respond to the many requests it had received, the ICRC also asked the National Society whether it had visited the detainees and, if not, whether it was in touch with the official medical commission that had been appointed by the Syrian government.

On the basis of visits made to the detainees by their families and subsequent public denials of ill-treatment, the Syrian Arab Red Crescent declared itself convinced that the conditions of detention were satisfactory and in keeping with the relevant articles of the Syrian constitution.

The ICRC passed on this information to those who had asked it to intervene, whereupon it received a scathing telegram from the Lebanese journalist accusing it of hypocrisy.

Conclusion

This case shows the extent to which the ICRC was groping in the dark during its first attempts to assist political detainees after the Second World War. In its eagerness to expand its field of activity to include such detainees, it failed to examine the situation in Syria with due care. Moreover, after being admonished by Burnier for the inadequacy of its approach and after delving deeper into the matter, it did no more than ask the Syrian Arab Red Crescent for its advice.

It is surprising that, in order to justify its action, the ICRC seems to have drawn a parallel between the situation in Syria and various internal armed conflicts and their aftermath, such as those in Greece, Guatemala, Costa Rica and Nicaragua, or associated it with colonial wars, such as those in North Africa, whereas it more closely resembled a situation of internal disturbances – certainly not a full-fledged armed conflict. That said, the 1953 Commission of Experts had sought to extend the notion of political detainee beyond situations of internal armed conflict or internal strife to include all persons being held in preventive detention for political reasons.

In the final analysis, it seems that the ICRC acted hastily in responding to appeals from the Muslim Brotherhood on behalf of its members incarcerated in Cairo and from Saudi Arabia regarding the dispute over the Buraimi Oasis. The reason for this rush to act was no doubt that it viewed the appeals it had received as a sign of growing confidence in its services within the Arab world.
General conclusion

At the end of the Second World War, the ICRC’s funds were depleted and its morale was flagging. Without a strong leader at the helm and burdened by the responsibility of defending unpopular groups, the organization was struggling for its own survival. Ten years later, however, the ICRC had regained its footing owing to the following factors:

- the Cold War and the threat of a third world war, which had increased the ICRC’s value as a neutral intermediary, at least in Western eyes (although this situation turned out, in practice, to act as a double-edged sword);
- the fresh impetus given to the ICRC by Paul Ruegger, its president from 1948 to 1955;
- the role played by the organization in new conflicts, especially in Palestine from 1948 to 1949;
- the improvement of its financial situation, beginning in 1949;
- the adoption of the four Geneva Conventions of 1949 and the subsequent postponement of the revision of the Statutes of the International Red Cross.

In February 1945, the ICRC had been successful in drawing governments and National Red Cross and Red Crescent Societies into the process of revising and developing international humanitarian law that was to culminate in the adoption of the four Geneva Conventions of 1949.

At the time, however, the ICRC was being attacked from within the International Red Cross. Not only did its detractors criticize its Swiss-only composition – which led them to question its independence and its role as a neutral intermediary – but they also cast aspersions on its relief activities and went so far as to challenge its right to exist. Most of these attacks were launched by governments and National Societies of Eastern Europe, but some volleys also came from Western National Societies, such as those of Sweden and the United States.

Following a proposal made by Count Bernadotte to internationalize the ICRC, the organization was pressured into cooperating with a special commission set up to study ways of increasing its efficiency. During the commission’s meetings – which were boycotted by the Soviet National Society – the ICRC managed to make a
favourable impression and convince its members not to put the revision of the Statutes of the International Red Cross before the 27th International Conference of the Red Cross. These events were largely due to the emergence of the Cold War, whose repercussions were felt at the very heart of the Red Cross. Witness to which, the USSR and the Eastern-bloc countries did not attend the International Conference held in Stockholm, in August 1948, and the question of internationalization was simply not raised.

Nevertheless, the Geneva Conventions of 1949 were adopted by the international community as a whole, including the USSR and its satellite States, an achievement that crowned the ICRC’s efforts to ensure greater protection for war victims. It conferred on the ICRC, in the midst of the Cold War and while it was still under attack, an unprecedented degree of international recognition. Not only was its role as a neutral intermediary confirmed, but its mandate was broadened and enshrined in various international legal instruments. When the question of the revision of the Statutes of the International Red Cross came up again in October 1950, the ICRC found itself in a much stronger position to defend its mandate.¹ As a result, the Statutes adopted by the 18th International Conference held in Toronto in November 1952² safeguarded both the ICRC’s specific attributes and its scope for action. At the time, the ICRC’s relations with National Societies were mostly confined to legal issues, such as the development of international humanitarian law and the revision of the Statutes. They rarely extended to cooperation in the field.

Prior to 1948 – with the exception of its operation in Indonesia and its fledgling activities in Greece, Indochina and Palestine – the efforts deployed by the ICRC to cope with the aftermath of the Second World War took up most of its energy and resources. In fact, the scope of the devastation wrought by the Second World War kept the ICRC’s attention riveted on Europe.

Since the Allies had decided to provide for the needs of their own nationals, in cooperation with the United Nations Relief and Rehabilitation Administration (UNRRA), the ICRC found itself mainly assisting the citizens of defeated countries. The bulk of its activities was directed towards helping German nationals, who constituted the largest group of destitute people in post-war Europe. Owing to the genocide and other crimes perpetrated by the Third Reich, however, German citizens – whether soldiers or civilians – elicited very little sympathy and were often dismissed as Nazi sympathizers. This unpopularity rubbed off on the ICRC, especially in the Balkan countries and the other Eastern European nations that had suffered the most during the war.

In its own defence, the ICRC invoked the principle of impartiality. It was true that, during the Second World War, most of the ICRC’s activities had benefited

² These Statutes remained in force until 1986.
Allied prisoners of war. It was also true that the organization’s mandate called for it to assist all prisoners of war, without distinction, until their repatriation or liberation.

Nonetheless, one may ask whether it was appropriate for the ICRC to provide legal assistance for German prisoners under prosecution for war crimes (or other crimes), especially in the light of its own inability to protect the victims of those crimes during the Second World War. Was it wise for the ICRC’s delegation in Paris to provide what amounted to consular services for such prisoners assigned to civilian labour, especially given its lack of human and financial resources. Did the ICRC’s involvement in those activities not deprive other victims of the war and its aftermath – and of other conflicts around the world – of its services? In any event, it seems that the ICRC’s geographical proximity to Germany played a considerable role in the attention it paid to the country’s nationals.

The appointment of Paul Ruegger as ICRC president in May 1948 brought new strength to the weakened organization. In the field of international humanitarian law, he backed the ICRC’s efforts to protect civilians against the effects of atomic weapons and indiscriminate warfare. To support the ICRC’s field operations, he pressed for implementation of Article 3 common to the four Geneva Conventions of 1949, which regulates non-international armed conflict, despite fears within the organization that this might cause governments to shy away from adhering to the new conventions. He also encouraged the ICRC to develop its non-treaty-based activities for victims of internal disturbances and political detainees and to accept new mandates, such as that of seeking compensation for prisoners of war formerly held by Japan. Ruegger willingly travelled to countries at war and played an active role in the international arena. Above all, he endeavoured to turn the ICRC into a less Eurocentric organization. Some of his initiatives met with resistance and others were unsuccessful, but on the whole they served to raise the ICRC’s profile and strengthen its authority and credibility.

Between 1945 and 1955, apart from its major operations for victims of the Second World War and its aftermath, the ICRC undertook to discharge its mandate in connection with the following conflicts: the wars of independence in Indonesia (1945) and Indochina (1947), the First Kashmir War (late 1947), the Palestine War (early 1948) and the Korean War (1950). Overall, and without revisiting what has already been described and summed up in each chapter, one can say that the ICRC fulfilled its role as a neutral intermediary during armed conflicts that were not – or were only indirectly – related to the Cold War, such as those in Indonesia, Palestine and Kashmir. In Indochina and especially in Korea, however, the ICRC ran up

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against a wall of resistance on the communist side and had to resign itself to working only in the Western camp. This trend continued into the future, especially during the Vietnam War. The ICRC’s flagship operation at the time was conducted in connection with the Palestine War, during which the organization was able to carry out its full range of activities, including – thanks to UN funding – major relief distributions.

During the same period, the ICRC strove to carry out its tasks in connection with the civil wars in Greece (1946), Paraguay (1947) and China (end of 1948), the Karen insurrection in Burma (1949), the insurrection in the South Moluccas (1950) and the civil wars in Guatemala (1954) and Costa Rica (1955). The first of these countries in which it worked was Greece, where it had conducted a major operation during the Second World War and where it already had a delegate on the spot when the civil war broke out in 1946. On the other hand, it dragged its feet before sending representatives to China. As for Paraguay, its attempts to work there took place simply because one of its directors happened to be travelling through Latin America at the time. These examples clearly illustrate the Eurocentric attitude that characterized the ICRC during those years.

Setting aside its efforts to assist detained Republicans in Spain from late 1945 onward – which it considered a logical follow-up to its work during the 1936–1939 civil war – the veritable launch (or re-launch) of the ICRC’s activities for victims of internal disturbances and political detainees can be traced back to the early 1950s. Coming in the wake of the disturbances in Tunisia and following President Ruegger’s trip to Latin America, this development led the ICRC to draft new policy guidelines. Despite strong resistance on the part of governments and its own failures and missteps along the way, the ICRC’s first attempts to assist such groups in Europe (Spain and Greece, North Africa (Tunisia, Morocco and Algeria), Latin America (Venezuela, Bolivia, Guatemala, Costa Rica, Nicaragua and Argentina) and the Middle East (Egypt and Syria) paved the way for the development of such activities in later years.

Lastly, the ICRC provided medical assistance during communal strife in Bengal (1950) and sent a team to assist victims of the Buraimi Oasis crisis (1954), two operations whose main purpose was to relieve tensions.

Following the Second World War, the ICRC was seriously hampered by a lack of funds. Critical in 1945, its financial situation began to improve in 1949, thanks to a drastic reduction in personnel, but remained weak for about a decade. It was thus forced to choose between various categories of victims (prisoners of war versus displaced persons and other vulnerable civilians), types of activities (visits to places of detention versus material assistance) and theatres of operation (Europe versus other continents). The ICRC’s reliance on resident delegates, which enabled it to maintain a worldwide network of representatives despite its financial difficulties, proved to be yet another pitfall. These unpaid delegates were Swiss nationals who lived and worked abroad while representing the ICRC on a part-time, voluntary basis. They often lacked the time and skills necessary to be effective. This system proved to be a veritable

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5 In the case of Paraguay, its representations received no follow-up.
Achilles’ heel when the ICRC was faced with politically sensitive situations during internal disturbances since its resident delegates had private and professional ties in the countries where they worked that prevented them from acting in total independence.

By 1955, however, the ICRC’s situation had considerably improved. The organization had consolidated its legal foundations – both treaty-based and statutory – and it had begun to develop criteria enabling it to act on behalf of victims of internal disturbances and political detainees. The ICRC had also raised its profile, demonstrated its credibility in crises other than the Second World War and broadened the scope of its activities despite its financial woes. This enhanced authority made it possible for the ICRC to discharge its mandate to protect and assist victims of the crises and conflicts that proliferated in the mid-1950s, beginning with the Hungarian insurrection and the Suez Canal crisis in the fall of 1956.6

The challenge it faced remained no less daunting, however: to guarantee humane standards of treatment for all people.

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6 These activities are described in Françoise Perret and François Bugnion, *De Budapest à Saigon: Histoire du Comité internationale de la Croix-Rouge 1956–1965*, op. cit.
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MISSION

The International Committee of the Red Cross (ICRC) is an impartial, neutral and independent organization whose exclusively humanitarian mission is to protect the lives and dignity of victims of armed conflict and other situations of violence and to provide them with assistance. The ICRC also endeavours to prevent suffering by promoting and strengthening humanitarian law and universal humanitarian principles. Established in 1863, the ICRC is at the origin of the Geneva Conventions and the International Red Cross and Red Crescent Movement. It directs and coordinates the international activities conducted by the Movement in armed conflicts and other situations of violence.
In the aftermath of the Second World War, the ICRC, morally weakened and on the verge of bankruptcy, saw its very existence called into question. It was reproached for failing to publicly condemn Nazi crimes against Jews and Soviet prisoners of war and for its ties to the Swiss establishment. Ten years on, however, its position had been restored.

From Yalta to Dien Bien Phu traces the work of the ICRC in the decade following the war, consisting of operations to protect and assist the victims of armed conflict and initiatives in the field of international humanitarian law. At the operational level, in addition to the after-effects of the Second World War, this period was marked by the armed conflicts and strife that accompanied decolonization in Asia, the Middle East and North Africa and by the Cold War conflicts. In the area of international law, the major milestone was the adoption of the four Geneva Conventions of 1949.

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