

# The Emblem of the Red Cross

## A brief history

by **F. Bugnion**

*“It was neither Dunant’s desire nor that of his collaborators, nor that of the countries participating in the Geneva Convention that the work and emblem of the Red Cross should bear a religious stamp, or be in any way attached to a given set of philosophical ideas. On the contrary, the movement was not only to serve, but also to gather to itself, all sorts and conditions of men.”*

**Max Huber**

The Red Cross  
Principles and Problems.

## Introduction

The marking of ambulances and hospitals is a practice which goes back a long time, but until the middle of the nineteenth century different colours were used by different countries: Austria a white flag, France a red one, Spain and the United States yellow, to mention a few examples. The devices displayed were not generally well known, so that they were

seldom respected: it frequently happened that artillery shelled ambulances, that grapeshot riddled the waggons bearing the wounded but displaying no outward sign that their mission was one of mercy.

In any case, for want of a special agreement between belligerents, such markings had no legal backing. An attack on an ambulance was regrettable, of course; but it infringed no law of war.

Consequently, field hospitals were generally far behind the lines, beyond the range of enemy fire; but for the casualties this meant a long haul on uncomfortable litters or on the straw-covered floor of a wagon, their broken limbs interminably jolted and jerked, while their wounds became infected.

The medical services, their resources spread over too great a distance, were not equal to their task. After the battle of Solferino (24 June 1859) it took the Quartermaster's department of the French-Sardinian army six days to remove the wounded: six days for which the helpless casualties lay exposed to thirst, flies, infection and looters.

Wounds became gangrenous and all the army medical service could do was amputate. The troops returning from the campaign were followed by a long procession of disabled.

Henry Dunant determined to do something about the state of affairs he had witnessed at Solferino. Three years after the battle he expounded his views in a book, *A Memory of Solferino*, which soon created a great stir.

Hardly had the book come off the press when a committee was formed in Geneva—the International Standing Committee for Aid to Wounded Soldiers—for the purpose of translating Dunant's ideas into action. The committee, which later became the International Committee of the Red Cross, set itself two objectives:

to promote the founding in each country of a committee for relief to the military wounded; these committees were to be permanent so that they would be ready to act immediately war broke out;

to induce governments to commit themselves, by treaty, always to respect military ambulances and medical personnel.

Both ideas were brand-new, quite unrelated to the charitable committees which formed spontaneously after the battles and whose help, for want of preparation, more often than not came too late. The new com-

mittees were to be permanent, preparing in peacetime to carry out their mission. They had to train volunteer nurses, stock medical supplies, have suitable equipment and transport ready for action; in no other way could assistance be brought to the wounded in good time.

Similarly, these ideas supplanted the short-lived cartels for the granting of neutrality to ambulances and nursing personnel. The hazards of war all too rarely permitted the conclusion of such cartels which, in any case, lapsed soon after the battle, with no assurance that they could be renewed before the next. What was required was a solemn and permanent commitment concluded during peace and binding on the greatest number of Powers; in no other way could ambulances and medical personnel be assured of neutral status when hostilities erupted and for as long as they lasted.

The programme was a bold one; but the International Standing Committee for Aid to Wounded Soldiers tackled it with a will, working for both objectives simultaneously. In 1863 and 1864 two international conferences were held in Geneva. The first brought forth the Red Cross movement; the resolutions it adopted are the foundation on which the work of some 120 National Red Cross Societies is based.

To the second conference we owe the Geneva Convention of that year, the start, as it were, of modern humanitarian law. The 1864 Convention was revised in Geneva in 1906, 1929 and 1949. One hundred and forty States are now parties to the Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field.

The International Committee's two objectives entailed the adoption of one single sign; for how could ambulances and medical personnel be protected so long as each State chose a sign of its own? Hence the need for a single simple sign, recognizable from a distance, known to all and identical for friend and foe: a sign of the respect due to the wounded and to the medical personnel: a sign which would have the backing of the law.

From very ancient times the white flag had been the sign of surrender or of the wish to negotiate. Customary law forbade firing on anyone displaying the white flag in good faith, for the white flag was symbolic of a truce.

By adding a red cross, the flag's message went a stage further, demanding respect for the wounded and for the medical personnel as well as a cease-fire.

If the protective sign was to be effective, it had to be known to all. It therefore had to be the same everywhere. The universality of the emblem appearing to be essential, it was an explicit requirement in the 1863 resolutions and the 1864 Convention.

Moreover, for its protection to be guaranteed, the sign had to be sanctioned by law. So long as every State was free to mark its ambulances as it liked—or not to mark them at all—an attack on an ambulance could not be unlawful. By contrast, under the Geneva Convention, anyone deliberately attacking an ambulance protected by the emblem specified in the Convention would be setting himself outside the law, might lay his side open to reprisals, and in the event of capture would be liable to punishment.

Hence the need for a standard protective sign sanctioned by law. The same emblem was adopted for the protection of army medical services and of voluntary nurses sent by the Committees for Aid to Wounded Soldiers. This was logical, for the latter were essentially the helpers of the former.

We have seen what requirements were satisfied by the adoption of the red cross emblem. The train of thought which led logically from the desire to ensure respect for the wounded to the adoption of a universal protective sign did not take any religious considerations into account.

Nevertheless, since 1876 it has been claimed in some circles that the sign of the Geneva Convention is a Christian symbol, with the result that the hope of universal recognition was shattered. Other signs were devised and their recognition in law was soon demanded. As time passed, these demands became increasingly pressing, so much so that the 1929 Diplomatic Conference, not without some reservations, recognized the emblems of the red crescent and of the red lion and sun.

The disadvantages of the new situation soon became so apparent that the 1949 Diplomatic Conference found itself facing two opposing demands, namely, one for the return to a single emblem and one for the recognition of new emblems considered more befitting to certain religious, cultural or national traditions than the signs previously recognized.

Finally, the 1949 Conference maintained the situation which had been created in 1929. Article 38 of the Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field is the basic provision in force today. It reads:

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

*Nevertheless, in the case of countries which already use as emblem, in place of the red cross, the red crescent or the red lion and sun on a white ground, those emblems are also recognized by the terms of the present Convention.<sup>1</sup>*

In the following pages an attempt is made to trace, through the records of international conferences, the history of the red cross sign and of the erosion of its universality. This study comprises three parts:

part one, the longest, reviews discussions on the subject of the sign at the Geneva Conferences of 1863, 1864, 1906, 1929 and 1949, and at the Hague Conferences of 1899 and 1907; special attention is given to the attitude of the International Committee of the Red Cross;

part two mentions proposals which have been put forward for the recognition of new emblems in addition to the existing three;

in our conclusions we briefly analyze the situation today.

A bibliography is attached.<sup>2</sup>

---

<sup>1</sup> *The Geneva Conventions of August 12 1949* reprint, Geneva, ICRC, 1970, p. 39; *International Red Cross Handbook*, eleventh edition, Geneva, ICRC-League of Red Cross Societies, 1971, pp. 43-44; *The Laws of Armed Conflicts*, a Collection of Conventions, Resolutions and other Documents, edited by Schindler (Dietrich) and Toman (Jiri), Leiden, A. W. Sijthoff, and Geneva, Henry Dunant Institute, 1973, p. 310; *United Nations-Treaty Series* vol. 75, p. 56.

<sup>2</sup> As customary, we use "red cross" (with lower case) when referring to the emblem and "Red Cross" (initial capitals) for the institution. However, when quoting from documents we have retained the manner of the document even if it did not follow current practice.

## CHAPTER I

### Unity of the sign

#### 1. The origin

The adoption of a distinctive uniform sign for the army medical services and for the Societies for Relief to the Military Wounded seems to have been one of the earliest concerns of the Red Cross founders.

The record of the first meeting of the International Standing Committee for Aid to Wounded Soldiers—the future International Committee of the Red Cross—states:

*Finally, a badge, uniform or armband might usefully be adopted, so that the bearers of such distinctive and universally adopted insignia would be given due recognition.*<sup>1</sup>

That was at the meeting of 17 February 1863, when the societies of relief to the military wounded were still only an idea and the Geneva convention a project.

Moreover, with a view to the international conference of October 1863 which was to institute the founding of relief societies, the International Committee drew up a draft covenant, article 9 of which stated:

*Voluntary nurses in all countries shall wear a distinctive and identical uniform or sign. They shall be inviolable and military commanders shall give them protection.*<sup>2</sup>

---

<sup>1</sup> “Unpublished documents relative to the foundation of the Red Cross, Minutes of the Committee of Five”, published in *Revue internationale de la Croix-Rouge*, English supplement, Vol. II, No. 3, March 1949, pp. 123-140; p. 127 (Emphasis added).

<sup>2</sup> *Compte rendu de la Conférence internationale réunie à Genève les 26, 27, 28 et 29 octobre 1863 pour étudier les moyens de pourvoir à l'insuffisance du service sanitaire dans les armées en campagne*, 2nd ed., Geneva, ICRC, 1904, p. 17.

The draft covenant drawn up by the International Committee was the basis for the conference proceedings. Article 9 was considered during the third meeting, on 28 October 1863.

At the outset Mr. de Préval (France) proposed an amendment according to which the Conference would recommend restoring neutral status to ambulances. The motion was seconded by Dr. Loeffler (Prussia).<sup>3</sup>

The Chairman (G. Moynier, International Committee) pointed out that these proposals would be discussed later, when the Conference would be drawing up recommendations to governments.<sup>4</sup>

*Dr. Appia (International Committee) stressed the importance of a distinctive international sign and proposed adding to the first paragraph the sentence: "The Conference proposes a white armlet on the left arm". He went on to say that the Conference should not ignore the effect of a symbol the mere sight of which, like the flag for a soldier, could stimulate the esprit de corps which would attend this most generous idea, this undertaking common to all civilized mankind.*<sup>5</sup>

At that stage there was still no question of the red cross but, even then, what Dr. Appia said contained the essentials, namely:

- (a) that an internationally recognized distinctive sign should be adopted;
- (b) that the sign should be backed by international agreement;
- (c) that the sign should arouse a sort of reflex of respect for the soldier.

The Minutes do not say why the Conference decided to add a red cross to the white armlet proposed by Dr. Appia.<sup>6</sup> They merely record that:

---

<sup>3</sup> *Idem*, p. 93.

<sup>4</sup> *Idem*, p. 93.

<sup>5</sup> *Idem*, pp. 93-94.

<sup>6</sup> It was probably desired to avoid confusion with the white flag of negotiation. On the origin of the red cross sign see Jean S. Pictet: *The Sign of the Red Cross*, Geneva, ICRC, 1949; Perceval Frutiger; *L'origine du signe de la croix rouge* in *Revue internationale de la Croix-Rouge*, No. 426, June 1954, pp. 456-467; Maurice Dunant: *Les origines du drapeau et du brassard de la Croix-Rouge* in *La Croix-Rouge Suisse*, XXXth year, No. 1, 1 Jan. 1922, pp. 2-5; Pierre Boissier, *Histoire du Comité international de la Croix-Rouge, de Solferino à Tsoushima*, Paris, Plon, 1963, pp. 105-106.

... following discussion, Mr. Appia's proposal was adopted after being amended to the effect that the white armlet would bear a red cross.<sup>7</sup>

Dr. Brière (Switzerland) again raised the question of ambulances and army medical personnel:

*Dr. Brière recommended that the wounded be succoured irrespective of the side to which they belonged; that those who tended the wounded be safeguarded and not taken prisoner; that the same flag be given to all military hospitals and ambulances of the various nations; that any place displaying that flag be considered an inviolable place of asylum; and that a single distinctive sign, if possible a uniform of a special colour or an easily recognizable sign, be attributed to the military medical corps of every army.*<sup>8</sup>

Who, better than Dr. Brière, could bring out how indissociable were the two essentials, namely the unity of the distinctive sign and the institution of an international system of protection for the wounded?

Before ending on 29 October, the Conference adopted ten resolutions on the organization of voluntary societies for relief to wounded soldiers. It also gave its attention to the establishing of an international system of protection for the wounded, but this being obviously beyond the authority of such a meeting it could do no more than make recommendations.<sup>9</sup>

But in both cases, the adoption of a uniform sign appeared to be essential to a system of protection for military wounded:

The principle of sign uniformity was taken into account in resolution No. 8 concerning volunteer nurses:

*They shall wear in all countries, as a uniform distinctive sign, a white armlet with a red cross.*<sup>10</sup>

---

<sup>7</sup> *Compte rendu... 1863*, p. 94.

<sup>8</sup> *Idem.* p. 95.

<sup>9</sup> For recommendations and resolutions see *Compte rendu... 1863*, pp. 116-118; *International Red Cross Handbook*, pp. 375-377; *The Laws of Armed Conflicts*, pp. 199-201.

<sup>10</sup> *Compte rendu... 1863*, p. 117

As regards the medical personnel:

*That a uniform distinctive sign be recognized for the Medical Corps of all armies, or at least for all persons of the same army belonging to this Service; and*

*that a uniform flag also be adopted in all countries for ambulances and hospitals.*<sup>11</sup>

The recommendations of the 1863 Conference did not become mere pious hopes. In the following year the Swiss Government convoked a diplomatic conference in Geneva with a view to establishing by treaty the neutrality of the medical services of armies in the field.

For that purpose the International Committee drew up a draft convention, article 9 of which was the third recommendation of the 1863 Conference, namely:

*A distinctive and uniform armband shall be admitted for the medical officers and workers of all armies.*

*An identical flag shall also be adopted in all countries for military ambulances and hospitals.*

*This armband and flag shall be those adopted in Geneva by the International Conference of October 1863 (red cross on a white ground).*<sup>12</sup>

The 1864 Diplomatic Conference unhesitatingly followed the experts at the 1863 meeting. When article 9 came up for discussion during the fourth meeting on 12 August 1864 no objection was raised to the use of the red cross as a distinctive uniform sign.<sup>13</sup>

Article 7 of the Geneva Convention of 22 August 1864 was as follows:

*A distinctive and uniform flag shall be adopted for hospitals, ambulances and evacuation parties. It should in all circumstances be accompanied by the national flag.*

---

<sup>11</sup> *Idem*, p. 118.

<sup>12</sup> *Compte rendu de la Conférence internationale pour la Neutralisation du Service de Santé Militaire en campagne*, Geneva, 8-22 August 1864 (handwritten), Annex A, art. 9; (reproduced in De Martens: *Nouveau Recueil général de Traités*, vol. XX, pp. 375-399).

<sup>13</sup> *Compte rendu... 1864*, p. 25.

*An armlet may be worn by personnel enjoying neutrality but its issue shall be left to the military authorities.*

*Both flag and armlet shall bear a red cross on a white ground.*<sup>14</sup>

This provision, reworded in 1906, was the general rule until the 1929 Conference.

The rule that the sign should be the same for all does not seem to have been questioned at the 1868 Geneva Conference<sup>15</sup> or at the 1874 Brussels Conference,<sup>16</sup> although Turkey was represented at both.<sup>17</sup>

## 2. The Russo-Turkish War (1876-1878)

The rule that the sign should be the same for all was *de facto* disregarded, although not rescinded during the 1876-78 war.

Turkey had acceded to the 1864 Convention on 5 July 1865 without any reservation.<sup>18</sup> However, on 16 November 1876, the Sublime Porte informed the Swiss Government, the depositary of the Convention, that it would respect the red cross sign protecting enemy ambulances but would use the red crescent on a white ground as the protective sign for its own ambulances.<sup>19</sup> It stated that the distinctive sign of the Convention “had so far prevented Turkey from exercising its rights under the Convention because it gave offence to Muslim soldiers”.<sup>20</sup>

At the same time, an Ottoman Society for Relief to Military Wounded and Sick was revived in Constantinople and adopted the red crescent.<sup>21</sup>

---

<sup>14</sup> *Idem*, Annex B, art 7. See also *International Red Cross Handbook*, p. 8; *The Laws of Armed Conflicts*, pp. 203-206.

<sup>15</sup> See: *Protocole de la Conférence internationale réunie à Genève en octobre 1868*, Geneva, Imprimerie Fick, 1868.

<sup>16</sup> See: *Actes de la Conférence de Bruxelles (1874)*, Brussels, Imprimerie du Moniteur Belge, 1874.

<sup>17</sup> It is true that the Turkish delegates attended only part of each conference because they arrived late.

<sup>18</sup> *The Laws of Armed Conflicts*, p. 206.

<sup>19</sup> See: *Bulletin international des Sociétés de Secours aux Militaires blessés*, No. 29, Jan. 1877, pp. 35-37.

<sup>20</sup> *Idem*, p. 36.

<sup>21</sup> See *Bulletin international...*, No. 30, April 1877, pp. 39-47.

Two problems confronted the ICRC: how could it co-operate with the Ottoman Society? How would the Turkish decision to adopt the red crescent affect the Geneva Convention?

In a circular letter dated 30 April 1877 informing the National Societies of the Ottoman Society's reconstitution,<sup>22</sup> the ICRC said:

*... We must, however, draw your attention to the fact that the Ottoman Society for Relief to Military Wounded and Sick has adopted the red crescent on a white flag and armlet as the distinctive sign of neutral personnel.*

*This substitution of the red crescent for the red cross, in accordance with the proposals of the Sublime Porte to the States signatories to the Geneva Convention, places the Ottoman Society in an irregular position so far as its relations with the other Societies for relief to the wounded are concerned.*<sup>23</sup>

*... While entertaining formal reservations on the substitution of the red crescent for the red cross and the adoption of the former by the Porte before the States signatories to the Geneva Convention have agreed to it, we believe the Ottoman Society can render useful service to the cause of humanity.*<sup>24</sup>

Nothing could be clearer than that !

How the Turkish adoption of the red crescent might affect the Geneva Convention was primarily a question of concern to the States signatories to the Geneva Convention; but, as the initiator of that treaty, the ICRC gave its opinion. It did this in two monographs in Nos. 30 and 31 of *Bulletin international des Sociétés de Secours aux Militaires blessés*.<sup>25</sup>

These studies mentioned signatory government reactions to the decision of the Porte. Austria-Hungary and Russia pointed out the danger of adopting a national emblem as a sign of neutrality and a claim to protection.<sup>26</sup> The French comment was reproduced:

---

<sup>22</sup> *Idem.*

<sup>23</sup> *Idem*, p. 39 (emphasis added).

<sup>24</sup> *Idem*, p. 40 (emphasis added).

<sup>25</sup> *Bulletin international...*, No. 30, April 1877, pp. 41-47, and No. 31, July 1877, pp. 83-91.

<sup>26</sup> *Bulletin international...*, No. 30. p. 42,

*It is reasonable to suppose that these objections [the Ottoman Government's to the red cross] were not expressed sooner because the Porte realized the proper significance of the emblem adopted for the neutrality of hospitals, the emblem suggested by the design of the Swiss federal flag, with no religious character, and, in the minds of the plenipotentiaries, a tribute to the country which took the initiative and to which honour is due for the negotiations which culminated in the Geneva Convention."*<sup>27</sup>

The standpoint of the ICRC was even more definite:

*...it is surprising that, after acceding unreservedly to the Geneva Convention, and consequently accepting article 7 stipulating 'A distinctive and uniform flag shall be adopted for hospitals, ambulances and evacuation parties... an armlet may also be worn by personnel enjoying neutrality... both flag and armlet shall bear a red cross on a white ground', Turkey should now, on the eve of a great war, simply inform the contracting powers that it has on its own initiative, and so far as it is concerned, made an important change in a clause of the treaty.*

*That any contracting party should change the contract in any way, and purpose to have the other parties accept the change without any proper decision in the form of an additional article or a revision, is quite inadmissible.*<sup>28</sup>

The ICRC went on to underline the dangers involved in abandoning the unity of the sign: it would result in opposition between the red cross—which the Moslems wrongly considered a religious symbol—and the crescent, the religious and national emblem of the Ottoman Empire; in that way the opposition between peoples and beliefs would be transmitted to the protective sign: such opposition had to be avoided, especially during a war in which religious fanaticism was likely to be stirred to fever pitch.<sup>29</sup>

The fact remained that Turkey had implied that it was powerless to enforce respect for the Geneva Convention by its troops if the proposed change was not accepted. The threat to the wounded of both sides was serious, so the ICRC urged a *modus vivendi* in view of the war which had just broken out.<sup>30</sup>

---

<sup>27</sup> *Bulletin international...*, No. 31, July 1877, pp. 83-84.

<sup>28</sup> *Bulletin international...*, No. 30, April 1877, pp. 43-44, (underlined in the original).

<sup>29</sup> *Idem*, p. 44.

<sup>30</sup> *Idem*, p. 45.

There was, therefore, no question of permanently abandoning the unity of the sign.

This is clear also from the communication of 30 June 1877:

*...It was well understood that any arrangements the belligerents agreed to would not be a precedent and would cease at the end of the present war.*<sup>31</sup>

The attitude of the Swiss Federal Council was identical.<sup>32</sup>

\*

The study of this event reveals two facts. First, that Turkey's unilateral decision placed before the ICRC, the depositary State and the signatory States, a factual situation which was accepted only for the duration of the war: the single-sign rule was called into question but not then broken. Second, that the ICRC immediately and clearly defended the integrity of the Convention and the unity of the emblem.

The legal situation created by the exchange of notes between the depositary State and the contracting States remained the same until the Hague and Geneva Conferences (1899, 1906 and 1907).

Three conclusions may be drawn from this exchange of communications:

- (a) the ICRC was opposed to more than one sign;
- (b) the ICRC was opposed to a national or religious emblem as a protective sign;
- (c) the ICRC pointed out that the Ottoman Society's adoption of an emblem not recognized by the Convention would place that Society in an irregular situation.<sup>33</sup>

---

<sup>31</sup> *Bulletin international...*, No. 31, July 1877, p. 89.

<sup>32</sup> See: Message from the Federal Council to the Sublime Porte on 2 June 1877, reproduced in *Bulletin international...*, No. 31, July 1877, pp. 90-91.

<sup>33</sup> It would seem an exaggeration to say that the ICRC officially recognized the Ottoman Society for Relief to Military Wounded and Sick in 1877. It did approve the reconstitution of that Society and agreed to a relationship with it, but at the same time it said that the adoption of a sign other than the one recognized in the Convention would place the Society in an irregular position.

So far as we know, it was not until 1887, at the Fourth International Red Cross Conference at Karlsruhe that the ICRC was assigned the mandate of notifying existing National Societies of the constitution of new Societies after verifying the bases on which they were founded. See *Compte rendu de la Quatrième Conférence internationale de la Croix-Rouge*, Karlsruhe, 1887, pp. 19-20 and 87-102. See chapter II below.

As can be seen, all the essential ingredients for a debate which continues even today were at hand already at that time.

### 3. The Peace Conferences and the Revision Conference (The Hague, 1899 and 1907; Geneva, 1906).

As far back as 1866, the ICRC had been concerned to adapt to sea warfare the principles hallowed by the 1864 Convention.

In 1868 the Swiss Federal Council convoked a diplomatic conference for that purpose. The Conference adopted fifteen articles—nine of them relating to war at sea—for addition to the Convention of 22 August 1864.<sup>34</sup> The articles were never ratified, and the uncertainty of law applicable to war at sea continued.<sup>35</sup>

To remedy that situation was one of the objectives of the **1899 Hague Peace Conference** which drafted a Convention for the Adaptation to Maritime Warfare of the Principles of the Geneva Convention of 22 August 1864.<sup>36</sup>

Yet to broach the problem of hospital ship protection meant reviving the emblem controversy, and this the first subcommission of the Second Commission did. The matter was again discussed by the Second Commission.<sup>37</sup>

The Turkish, Persian and Siamese delegates spoke in favour of particular signs for the protection of their hospital ships (the red crescent, the red lion and sun, and the Buddhist flame respectively; the latter jointly with the cross).

The delegate of the United States of America stated that, the cross being religious in character and appealing particularly to Christian

---

<sup>34</sup> *Protocole de la Conférence internationale réunie à Genève en octobre 1868*, Geneva, Imprimerie Fick, 1868, pp. 51-54; *The Laws of Armed Conflicts*, pp. 207 ff.

<sup>35</sup> *The Laws of Armed Conflicts*, pp. 207 ff.

<sup>36</sup> Hague Convention No. III, 1899; see *The Proceedings of the Hague Peace Conferences*, translation of the official texts prepared in the Division of International Law of the Carnegie Endowment for International Peace, under the supervision of James Brown Scott, New York, Oxford University Press, 1920-1921, *The Conference of 1899*, pp. 247-250; *The Laws of Armed Conflicts*, pp. 211-215.

<sup>37</sup> *The Proceedings... 1899*, pp. 453-454, 461-462, 388, 390-391. So far as we know, the emblem was not discussed in the plenum; see *op. cit.*, pp. 27-44.

nations, there would be advantage in adopting another sign which would be recognized by all.<sup>38</sup>

The Swiss delegate, Mr. Odier,<sup>39</sup> pointed out that the Conference was not competent to give its opinion on proposals to amend the Geneva Convention; only a conference convened to revise the 1864 Convention could examine those questions.<sup>40</sup>

This point of view prevailed: the Conference therefore merely took note of the various statements.<sup>41</sup>

Turkey, Persia and Siam signed and ratified the Hague Convention No. III (1899) without making any reservation about the protective sign.<sup>42</sup>

The question was again discussed at **the 1906 Geneva Conference** which had been convoked by the Swiss Government to revise the 1864 Convention.

Point 12 of the questionnaire which the Swiss Government sent to invited States brought up the problem of the emblem:

*To examine whether the red cross on a white ground (article 7 of the Convention) should remain the only distinctive sign or whether exceptions should be admitted for non-Christian States, such as Turkey which has substituted the red crescent for the red cross.*<sup>43</sup>

The English plenipotentiaries had prepared a draft convention, article 14 of which would have retained the red cross as the only protective sign.<sup>44</sup> In an accompanying note they stated that a mention of the source whence the sign was derived might obviate objections to it entertained by Turkish troops.<sup>45</sup>

The emblem question was submitted to the Fourth Commission, which discussed it at its second meeting.<sup>46</sup>

---

<sup>38</sup> *Idem*, pp. 461 and 388.

<sup>39</sup> He was attending the Conference as a delegate of the Swiss Government but he was also the secretary and a member of the ICRC. The ICRC itself was not represented.

<sup>40</sup> *Idem*. p. 390.

<sup>41</sup> *Idem*, p. 391.

<sup>42</sup> *The Laws of Armed Conflicts*, pp. 211-215.

<sup>43</sup> *Actes de la Conférence de Révision réunie à Genève du 11 juin au 6 juillet 1906*, Geneva, Imprimerie Henry Jarrys, 1906, p. 17.

<sup>44</sup> *Idem*, p. 63.

<sup>45</sup> *Ibid*.

<sup>46</sup> 15 June 1906. See *Actes 1906*, pp. 160-163.

The proceedings were opened by the Commission Chairman, Mr. de Martens (Russia), who was in favour of the unity of the sign. He was followed by the delegate for Holland, who spoke for the maintenance of the red cross: *It is wrong to believe this sign has religious significance; it is merely the inversion of the Swiss colours*".<sup>47</sup> The delegates of Great Britain and Greece also favoured a unique sign. The Greek delegate emphasized the consequences of departing from a unique sign and asked whether a State unable to guarantee the protection invoked by the sign could continue to be a party to the Convention.<sup>48</sup>

Mr. de Martens, referring to the Russo-Turkish war, said:

*... in 1877 Turkey stated that it could not guarantee that its troops would respect the red cross and admitted itself powerless to ensure observance of the Geneva Convention. It proposed substituting the crescent for the cross. Russia was obliged to accept that proposal, otherwise its medical units would have been deprived of protection. There is a misunderstanding in that substitution. Two Powers had reservations about it recorded in the Minutes of the Hague Conference.*<sup>49</sup>

The delegates of four Asian countries then successively took the floor.<sup>50</sup>

The Japanese delegate stated that his delegation attached no religious significance to the sign of the cross and had no objection to it.<sup>51</sup> The Chinese delegate said he had already conveyed to his Government that interpretation which was historical and quite satisfactory, and he expected to receive favourable instructions to that effect.<sup>52</sup>

*The delegate for Persia, Mr. Momtaz-os-Saltaneh, made a similar statement, adding that the difficulties encountered by non-Christian States in applying the red cross as the distinctive sign could not be attributed to the*

---

<sup>47</sup> *Idem*, p. 161. The Dutch delegate proposed substituting the word "emblem" for "flag", as a rigid panel was sometimes more easily seen than a flag. The proposal was accepted by the Second Commission.

<sup>48</sup> *Idem*, p. 162.

<sup>49</sup> *Ibid.*

<sup>50</sup> Although invited to the Conference, Turkey did not send a delegation.

<sup>51</sup> *Actes 1906*, p. 162.

<sup>52</sup> *Ibid.*

*religious idea of the cross but to other historical considerations, and that, at least in his country, the cross was respected in accordance with the Moslem religion.*<sup>53</sup>

The delegate for Siam spoke in a similar vein.<sup>54</sup>

The Chairman was about to put to the vote the question of the maintenance of the red cross as the sole distinctive sign when the British delegate intervened:

*Sir Ardagh proposed that the meeting state categorically whether the régime was or was not religious in character. The Chairman called upon the meeting to do so. No one taking the floor, he took note that no one attached any religious significance to that sign.*

*Mr. Renault proposed that the text indicate the origin of the cross as follows:*

*“As a tribute to Switzerland, the heraldic sign of the red cross on a white ground is admitted as the emblem and distinctive sign of army medical services” . . .*<sup>55</sup>

There then followed an exchange of views about the admissibility of reservations on this matter:

*Mr. Lou Tseng Tsiang (China) asked that delegates be allowed to make reservations.*

*The Chairman replied that that was every delegate's unquestionable right.*

---

<sup>53</sup> *Ibid.*

<sup>54</sup> *Ibid.*

<sup>55</sup> *Ibid.* Some writers attach considerable importance to the fact that there was no actual vote. In contrast to the Commission Rapporteur, they contend that the Chairman of the Fourth Commission simply recorded the fact that no delegate asked for the floor. It should be mentioned that diplomatic conference procedure of that time was less formal than today. Generally a vote was taken only if requested; otherwise assent was assumed if no objection was raised. Nevertheless, the procedure demonstrated agreement, and that was what counted. Incidentally, the practice has recently returned to favour at the United Nations, where it is called the “consensus”. It was in that manner that the “Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations” was adopted without a vote by the General Assembly (Resolution 2625 (XXV) 1970).

*Mr. Schücking (Austria-Hungary) asked whether the adoption of this sign might prevent signature by some Powers.*

*The Chairman said he did not think so, in view of the exchange of opinions that had just taken place.*

*The question was put to the vote.*

*Except for three abstentions (China, Persia, Siam) the unity of the red cross sign was adopted unanimously.*

*The Chairman pointed out that there was also unanimity for the unity of the armlet, as well as of the emblem.<sup>56</sup>*

During the third meeting of the Commission, the delegate for Siam stated that his country unreservedly accepted the red cross as the emblem of the Geneva Convention.<sup>57</sup>

The report submitted to the plenary conference by Louis Renault (France) on behalf of the drafting committee commented as follows on the decision concerning the emblem:

*The first question was whether the red cross on a white ground should be maintained as the only distinctive sign (Art. 7 of the 1864 Convention).*

*No proposal was made to change a state of affairs which has existed for more than forty years or a name which has become a household word in every civilized country of the world. A change would confuse the general public and could well do considerable harm to the humanitarian work which it is the purpose of the Convention to promote. Moreover, a change would have no motive behind it. It is well known that it was by no means as a religious symbol that the cross was adopted by our predecessors. They had Switzerland in mind, the country which was their host and which had taken the initiative to call them together; they desired to pay a tribute to her and at the same time they thought that an emblem borrowed from a country neutralized by solemn treaties would be particularly suitable for the objective they had set themselves. They therefore adopted the Swiss flag with inverted colours. It is an insignia easy to make, recognizable by its simplicity and sharply contrasting colours.*

---

<sup>56</sup> *Actes 1906*, pp. 162-163.

<sup>57</sup> 18 June 1906, *idem*, p. 175.

*This explanation should satisfy all requirements; it proves that the emblem adopted cannot offend any religious conviction.*

*The Conference observed that the emblem was of no religious significance, and the wording of the proposal was designed to emphasize the purely historical origin of the red cross and the character of the emblem. It had first been thought unnecessary to say that the emblem was borrowed from the Swiss armorial bearings with the colours reversed, but on second thoughts it was considered expedient to do so. The expressions used clearly show, even though implicitly, that there is no religious significance. We are pleased to note that the representatives of several non-Christian States have declared their satisfaction with this explanation and that their Governments did not object to the maintenance of the principle underlying article 7 of the Convention.*

*The Conference thought there was no reason to specify the shape of the cross by stating that ‘it comprised five squares’. It thought such detail pointless and even dangerous. Indeed, the shape has been hallowed by constant and universal usage from which no one would dream of departing. In addition, such precision might be invoked to claim that a cross of different proportions, a cross of different dimensions used in one religion or another, would not be the distinctive sign of the Geneva Convention and hence not an abuse.”<sup>58</sup>*

The Drafting Committee therefore proposed the following wording:

*Out of respect to Switzerland the heraldic emblem of the red cross on a white ground, formed by the reversal of the federal colours, is continued as the emblem and distinctive sign of the sanitary services of armies.<sup>59</sup>*

This article was adopted without discussion or opposition by the fourth plenary meeting on 28 June 1906.<sup>60</sup> It thus became article 18 of the Geneva Convention of 6 July 1906.<sup>61</sup>

The delegates of Persia signed the Final Act of the Conference, formulating one reservation about article 18;<sup>62</sup> however, Persia did not

---

<sup>58</sup> *Actes 1906*, p. 260 (underlined in original).

<sup>59</sup> *Ibid.*

<sup>60</sup> *Idem*, p. 214.

<sup>61</sup> *Idem*, p. 286; *The Laws of Armed Conflicts*, p. 228.

<sup>62</sup> *Actes 1906*, p. 292.

ratify the Convention.<sup>63</sup> Turkey acceded to the Convention on 24 August 1907, making one reservation about the sign.<sup>64</sup> Egypt acceded to the Convention on 17 December 1923 with a similar reservation.<sup>65</sup>

Such was the legal situation arising from the Revision Conference of 1906.

The emblem question was discussed again at the **Second Peace Conference at The Hague in 1907.**

The Hague Conference of 1899 had drawn up a Convention for the Adaptation to Maritime Warfare of the Principles of the Geneva Convention of 22 August 1864. The latter having been revised in Geneva in 1906, it appeared necessary to revise also the Hague Convention in order to ensure consistency between rules applicable to land warfare and those applicable to war at sea.

The question was referred to the Third Commission, at whose first meeting on 24 June 1907 the delegate of China read out a statement in favour of the unity of the sign, and the delegate of Turkey restated his Government's position.<sup>66</sup>

The discussion was resumed by the second subcommission of the Third Commission which had been assigned to examine the law of war at sea.

During the first meeting on 2 July 1907 the delegate of the Ottoman Empire delivered a long statement on his Government's attitude. He reminded the subcommission of his country's commitment to respect the sign of the red cross and also described the historical circumstances which had led Turkey to adopt another emblem for the protection of its ambulances. He asked the Conference to recognize as a consequence the inviolability of the red crescent by inserting an appropriate clause in the draft Convention.<sup>67</sup>

---

<sup>63</sup> *The Laws of Armed Conflicts*, p. 233.

<sup>64</sup> *Ibid.* See De Martens: *Nouveau Recueil général de Traités*, third series, vol. II, p. 620

<sup>65</sup> *The Laws of Armed Conflicts*, p. 233. See *League of Nations Treaty Series*, vol. 19, p. 293, and vol. 31, p. 263.

<sup>66</sup> *The Proceedings of The Hague Peace Conferences*, translation of the official texts prepared in the Division of International Law of the Carnegie Endowment for International Peace, under the supervision of James Brown Scott. *The Conference of 1907*, vol. III (Meetings of the Second, Third and Fourth Commissions), p. 292.

<sup>67</sup> *Idem.* pp. 560-561.

The German delegate subsequently stated that his Government saw no obstacle in the way of respect for the red crescent sign on the same footing as the red cross. On the other hand, he urged the Turkish delegate not to ask for the insertion of an article to that effect as it would make amendment of earlier Conventions necessary.<sup>68</sup>

The Turkish delegate explained that he merely sought reciprocity, and that he expected from the Conference a solution which would satisfy his Government.<sup>69</sup>

Mr. Momtaz-os-Saltaneh made a similar statement concerning the use by Persia of the red lion and sun. He said that Persia had signed the 1906 Convention, subject to a reservation about article 18. Persia's objections did not arise from religious considerations.<sup>70</sup>

Mr. Carlin, the Swiss delegate, read out article 18 of the 1906 Convention. He reminded the subcommission that the 1906 Conference had unanimously admitted that no religious significance was attached to the emblem of the red cross. He pointed out, in addition, that the subject before the meeting was solely the adaptation to maritime warfare of the principles of the 1864 and 1906 Conventions and that one of those principles—unanimously admitted, except by Persia—was the adoption of the red cross as the *sole* sign.<sup>71</sup>

The delegate for Persia then pointed out that he had been permitted to sign the Geneva Convention of 1906 in spite of the reservations which he had made in regard to article 18, adding that there was no necessity to revert to that question.<sup>72</sup>

The draft convention drawn up by the second subcommission was submitted to the Third Commission which discussed the sign during its second meeting when dealing with article 5, concerning the marking of hospital ships.<sup>73</sup>

The delegates of the Ottoman Empire, Persia and Switzerland repeated what they had said in the subcommission.<sup>74</sup> To sum up the debate, the Chairman, Count Torielli, pointed out that the Commission

---

<sup>68</sup> *Idem*, pp. 562-563.

<sup>69</sup> *Idem*, p. 563.

<sup>70</sup> *Ibid.*

<sup>71</sup> *Idem*, pp. 563-564. (italics in original).

<sup>72</sup> *Idem*, p. 564.

<sup>73</sup> 16 July 1907, *idem*, pp. 296-299.

<sup>74</sup> *Ibid.*

would “exceed the limits of the programme outlined for it if it entered into a discussion of what was decided at Geneva”, and that the Commission could only take note of the Turkish and Persian statements. He also stated that the “principle of reciprocal recognition of the distinctive flags of hospital ships requested by the two delegations had been accepted by the delegations of Germany, Italy and Russia and had elicited no opposition”.<sup>75</sup>

The draft convention was then referred to the plenary conference, which discussed it at its third meeting on 20 July 1907.<sup>76</sup>

The delegate of Turkey confirmed his earlier statements. He said that his delegation had not insisted on the insertion of a special clause in the draft convention but, he added, “the representatives of the Governments gathered together at this conference have been kind enough to accept the principle of the reciprocal recognition of the Red Cross and the Red Crescent as distinctive emblems of hospital ships and hospital attendants”.<sup>77</sup>

The delegates of Persia and Switzerland confirmed their previous statements.<sup>78</sup>

The delegate of Great Britain subscribed to the statements of the German, Italian and Russian delegations concerning reciprocal respect for protective signs displayed by hospital ships. The delegates of the United States of America and Austria-Hungary did likewise.<sup>79</sup>

Article 5 was adopted under these various reservations.<sup>80</sup>

At the same meeting the draft convention was adopted unanimously under the reservations previously formulated.<sup>81</sup>

At the ceremony for signature on 18 October 1907, the delegate for Persia signed the Convention for the Adaptation to Maritime Warfare of the Principles of the Geneva Convention,<sup>82</sup> “with reservation of the right, recognized by the Conference, to use the Lion and Red Sun instead of

---

<sup>75</sup> *Idem*, pp. 298-299.

<sup>76</sup> *The proceedings of the Hague Peace Conferences, The Conference of 1907*, vol. I (Plenary meetings of the Conference), pp. 62-65.

<sup>77</sup> *Idem*, p. 63.

<sup>78</sup> *Idem*, pp. 63-64.

<sup>79</sup> *Ibid.*

<sup>80</sup> *Idem*, p. 64.

<sup>81</sup> *Idem*, p. 65.

<sup>82</sup> Hague Convention No. X of 18 October 1906.

and in the place of the Red Cross".<sup>83</sup> The Turkish delegate made a similar reservation on the use of the red crescent.<sup>84</sup>

In fact, neither Persia nor Turkey ratified the Convention!<sup>85</sup>

\*

What conclusions can be drawn from the proceedings of the 1899, 1906 and 1907 Conferences?

The 1899 Hague Conference, at the instigation of the Swiss delegation, refused to discuss the sign.

On the other hand, this question was prominent in the proceedings of the Revision Conference of 1906. Apparently two decisions reached by the Conference, while not actually contradictory, were in substance nonetheless at variance.

First, the Conference reached a decision of principle: it chose to retain the red cross as the only protective sign; the unity of the emblem was therefore maintained.<sup>86</sup> In addition, the Conference stated categorically that the red cross sign was not of a religious character. To make this point, it adopted a new wording stating the historical origin of the emblem.

A difficulty arose, however. What would the situation be if some States remained adamant in their determination to use other signs?

There were only two possible courses: the Conference could either

(a) follow to its logical conclusion the decision to maintain the unity of the sign—in which case it had no choice but to exclude from the treaty system the reserving States; this was the opinion of the Greek delegate;<sup>87</sup> or

(b) authorize those States to participate in the treaty system, thereby admitting exceptions to the general rule of emblem unity—in which case the principle of a single sign was seriously impaired.

---

<sup>83</sup> *The Proceedings... 1907*, vol. I, p. 702; *The Laws of Armed Conflicts*, pp. 241-242.

<sup>84</sup> *The Laws of Armed Conflicts*, pp. 241-242.

<sup>85</sup> *Ibid.*

<sup>86</sup> See Conference Chairman's closing speech: *Actes, 1906*, pp. 270-271: "The unity of the emblem of army medical services has been maintained..."

<sup>87</sup> *Actes ... 1906*, p. 162.

In view of the situation brought about by some States, there was a conflict between the single sign principle and the Conference objective of a universal treaty. The Conference gave precedence to the universality of the treaty: reservations were admitted.

Thus two differing rules co-existed: the general rule of unity of the sign and a subsidiary rule established by reservations under which some States could adopt exceptional signs.

Whereas the general rule was binding on most States parties to the Convention, the subsidiary rule applied only to States which made reservations and to their relations with others. Like all rules established by reservations, this subsidiary rule was strictly of a deviant and exceptional nature.

Such seemed to be the legal position after the 1906 Conference.

The purpose of the 1907 Conference was to adapt the principles of the Geneva Convention to sea warfare. It was not therefore empowered to change the law referring to the sign, and in our opinion did not do so. It maintained the general single sign rule which was confirmed by article 5 of Convention No. X. That article mentions only the red cross as the distinctive sign for hospital ships.<sup>88</sup> The Conference did, however, admit the reservations formulated by Turkey and Persia and confirmed them by the commitment undertaken on a reciprocal basis by some States to respect the sign of the red crescent.

Here again, in Convention No. X, the general single sign rule co-exists with the deviant rule for the States making reservations.

*(to be continued)*

---

<sup>88</sup> *The Proceedings... 1907*, vol. I, p. 651; *The Laws of Armed Conflicts*, p. 237.