

DISSEMINATION OF THE GENEVA CONVENTIONS

Resolution No. 2, voted by the Council of Delegates in Mexico City in October 1971, urged National Societies to report to the ICRC their plans and results in the dissemination of the Geneva Conventions. The Conference of Red Cross Experts, meeting in Vienna last March, expressed a recommendation to the same effect. We are introducing a new heading under which we shall be happy to publish any information the ICRC may receive on this subject.

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GERMANY DEMOCRATIC REPUBLIC

The German Red Cross in the German Democratic Republic has made a notable effort to disseminate the Geneva Conventions in that country. It has published a series of booklets on the Conventions and their practical implementation. One of these, of which 50,000 copies were printed in 1971, was the second edition of a booklet published in 1967, with some slight changes and without the illustrations which had appeared in the first edition. The present booklet is therefore clearer and of a more convenient format.

The National Society had already published several editions of a brochure on the Geneva Conventions which contained a brief outline based on the "Summary for Members of the Armed Forces and the General Public", issued by the ICRC in 1951. The German Red Cross published more than 250,000 copies of the booklets on the Geneva Conventions, in 1967 and 1971 as well as in earlier years. Further, in 1971 this National Society published two edi-

tions of the text of the First and Fourth Geneva Conventions, one in the form of a brochure and the second for a loose-leaf compendium. Members of the Red Cross and all those who, because they have read the explanatory booklets or followed a course of study on the Geneva Conventions, wish to acquaint themselves more thoroughly with any of the provisions of the Conventions, are thus able to consult the text of those Conventions.

We may also mention the many articles on the Geneva Conventions which have appeared in Red Cross publications in the German Democratic Republic, and the brochures designed to make the Geneva Conventions better known and available to the professional groups concerned. Early in 1972, a further booklet appeared containing a study entitled "The Doctor and the Four Geneva Conventions of 12 August 1949 on the Protection of War Victims"; it is specially meant for doctors and other medical and auxiliary personnel.

The booklets published in 1971 and in earlier years have been sent by the Governing Body to district branches and local committees, and thence distributed to the 12,000 basic organizations. They are handed to members of the Red Cross and to others. As a rule, they are distributed at meetings held to ensure a closer study of the problems involved. The Geneva Conventions are explained by teachers or other persons conversant with the subject. The study is continued with what are known as seminar guidelines, issued by the Governing Board of the Red Cross to basic organizations and which provide for an analysis of the Geneva Conventions for several hours. The first part covers the origin and development of the Red Cross and the Geneva Conventions while the second part is assigned to an analysis of the principles and the essential provisions of the Geneva Conventions. The principles of the Red Cross are also studied.

In this study, it is of course made clear beyond doubt that the Red Cross rejects war as a political means, and that neither the principles nor the provisions of the Geneva Conventions imply any moral justification of warfare. The teaching is designed to serve the cause of peace and strengthen the conviction that mankind can finally triumph and reach complete fulfilment only in a world that knows no war. To prevent war, therefore, is the primary aim.

CANADA

The Canadian Red Cross had devoted some time ago a special number of its official publication¹ to the Geneva Conventions and to their meaning from both moral and practical aspects. The whole issue provided an admirable synthesis and a clear exposition of the questions involved, and enabled the general public to understand the significance of the Conventions and to realize how much it is necessary to give wide publicity to their principal rules. As an illustration, we shall therefore print here a number of passages from that publication. The following extract is what Despatch published on "The Place of the Geneva Conventions in the Law of Nations".

This brief survey of the Geneva Conventions and the essential role of the Red Cross movement in formulating them explains their privileged position in the law of nations.

The Roman *jus gentium*, from which the expression "droit des gens" derives, was defined by the Institutes of Justinian as the series of rules which natural reason has established among men: "quod naturalis ratio *inter homines* constituit". Under the ancient Roman conception, Roman law only applied to Roman citizens; slaves and non-Romans had no law. But the evolution of ideas and the expansion of the Roman Empire to the confines of the known world had broadened this original concept. Laws applicable to those who did not come under Roman law had been admitted by virtue of the sole fact that they were human beings. These ideas were to be adopted by theologians, who, in the name of Divine Justice, forcefully proclaimed the dignity of man. However, as modern States were formed, and papal authority weakened, quite a different conception of the law of nations was to evolve. From the end of the XVIth Century, Vitoria referred to a "jus inter gentes" to designate the law of nations, thus substituting the idea of political groups for that of individuals as subjects of international law.

Contrary to the canonists of the Middle Ages, the jurists who elaborated modern law no longer sought to link the idea of law

¹ *Despatch*, Canadian Red Cross, Toronto.

with Divine Justice. No doubt they still thought that it should be based on "natural law", a series of moral ideas conforming to the precepts of the Christian religion, but according to Suarez, the law of nations is distinct from natural law in that it is solely "positive human law". From that time onwards international law proceeded from the nations, which established it in their complete sovereignty; it resulted from the customs to which States conformed and conventions concluded between them.

In these circumstances the respect for the rights of the *individual* was simply a matter of the internal legislation of each State. It was considered that a sort of "social contract" bound individuals to their particular collectivity and that they had once and for all, so to speak, left the State to regulate the exercise of their rights. The principles of natural law were still honoured as the basis of legislation, and essential rights of persons continued to be promulgated by international legislation; but the *exercise* of these rights depended on the public authorities.

Internal public order can undoubtedly only be maintained on this condition, but in time of war, when the individual no longer comes under the natural protection of the State of which he is a citizen, how is the respect of fundamental human rights to be guaranteed? Only international law could protect these rights by suitable conventions between States, on condition the latter agree to restrict violence and safeguard certain human values in the very midst of conflict.

The Geneva Conventions provide for time of war, but it sometimes happens that, apart from cases of international conflict, there are internal disturbances during which the government and the people of a nation find themselves opposed. At such times individuals are exposed to the same dangers as enemies in time of war and if their position is considered from the strictly personal and human point of view, without regard to politics, their case calls for similar guarantees. Humanitarian logic is so strong that the analogy of situations has won legal protection for individual victims of civil wars and internal disturbances, i.e. a particular State's own nationals, which, while not being so comprehensive as that enjoyed by non-nationals, nevertheless preserves a minimum of humane treatment.

It is here that we touch upon the great problem of the place of the individual in international law. Some people, who favour the development of the law of nations, are now of the opinion that States are not the sole subjects of international law, but that the individual should also have his place therein for the respect of his fundamental rights. He should, moreover, be entitled to claim these rights if necessary, even outside the State of which he is a national. The approval of this step forward in international law would accord the right to individuals, non-governmental groups or organizations to resort to the procedure of availing themselves of their personal rights before an International Court of Human Rights. This question has been laid before the United Nations Commission on Human Rights, which has questioned Governments on it. The reply given by the Netherlands Government, among others, " admits that if it is desired to give complete protection on the international level to the rights and freedom of man, this right will finally have to be recognized; but before doing so, it should be waived until experience has shown the limits within which international protection of the rights and freedom of the individual is operative ".

For the time being, Geneva Law constitutes a universally accepted guarantee on many points, and especially as regards the safeguard of fundamental human rights in time of war or internal disturbances, that is to say when they are most threatened. The rights of the individual are matched by a duty of the States, in the name of humanitarian principles. This duty they have freely chosen to accept in accordance with the rules laid down in the international conventions.

Some have concluded from this that Geneva Law constitutes special law, " supra-international " law. This is what Mr. A. Pastor Ridruejo declares in a remarkable essay. His reasoning is that this law can be defined neither as internal law nor as international law in the ordinary sense of the terms, for three main reasons: because it is binding on persons who are not necessarily members of the international community (as, for example, rebels not recognized as belligerents, in an armed conflict of a non-international character), because it establishes rights in favour of persons (" protected persons ") and, finally, because it lays obligations on States in

regard to their own nationals. All these remarks are accurate, but it can equally be admitted that Geneva Law is a new type of international law under which States, for humanitarian reasons, have accepted to bind themselves, in certain circumstances, vis-à-vis their own nationals. The obligation contracted by the Powers which are mutually bound by the Geneva Conventions *to respect and ensure respect* of the said Conventions *in all circumstances* shows that these texts are not to be interpreted in a limited manner but are to be broadly applied in letter and spirit. That is why Geneva Law is, in a certain manner, of a privileged nature in the law of nations. This law has an affective element which has a decisive influence on usual inter-State relations. It authorizes and even recommends personal contacts from man to man, independent of any political allegiance.

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Conclusion. — It can be concluded from the above that Geneva Law broadens the conception of inter-State law in accordance with the precepts of charity. This is why the Red Cross, which for more than a century has done so much to shape and proclaim this Law, has taken as its maxim “ *Inter arma caritas* ”.

The numerous references in Geneva Law to Red Cross bodies and in particular to the International Committee of the Red Cross, show the important part assigned to the Red Cross in international affairs.

In this connection, it is to be noted that the International Red Cross is practically the only organization which was not incorporated in the United Nations during the extensive reorganization of international institutions. At a time when most of the existing international organizations were being replaced by the United Nations' services or by specialized agencies, the International Red Cross remained as it stood. It possessed wide authority and retained its independence, together with the character of a private body which sprang from its origin and traditions. This was indeed a tribute to the qualities of the movement. In addition, it was requested to continue and expand its humanitarian work.

The Universal Declaration of Human Rights of December 10, 1948 is one of the most important instruments of the United

Nations. But the text itself, however excellent, has not any executive value, and merely asks for the conclusion of suitable international conventions to implement it. These are still being studied and, in view of the political difficulties that have been raised, particularly as regards the Article concerning the right of peoples to self-determination, years may elapse before they are ratified.

In the meantime, an organization such as the Red Cross continues to be the best qualified to intervene, on behalf of victims of events, in the name of human dignity and in accordance with Red Cross principles. It is fit and proper that, irrespective of politics and inter-State relations, some international institution of a private character should retain the moral prestige and the material resources to carry humanitarian decisions in the most delicate circumstances.

These prerogatives, which extend to Red Cross action in war just as in peace, and especially during the present troubled times, where "cold war" and ideological propaganda constantly threaten to stir up conflict between nations, is based on what are known as the principles of the Geneva Conventions, which are bound up with the principles of the Red Cross.

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ITALY

At the International Red Cross Museum in Castiglione, an exhibition of documents and pictures on the Geneva Conventions, organized by the International Committee of the Red Cross, remained open from June to September of this year. About 4300 persons visited the exhibition; they had the opportunity to examine documents relating the progress of humanitarian law and to view colour slides of the school textbook "The Red Cross and My Country" and the "Soldier's Manual". The aim of the textbook is to propagate the fundamental principles of the Red Cross, while that of the "Soldier's Manual" is to disseminate as much as possible, among members of the armed forces, knowledge of the basic provisions of the Geneva Conventions.