

The relevance of the 50th anniversary of the Geneva Conventions to National Red Cross and Red Crescent Societies: reviewing the past to address the future

BY MICHAEL A. MEYER

The 1949 Geneva Conventions for the protection of war victims, perhaps the cornerstone of contemporary international humanitarian law, are still very much alive and relevant in this, the 50th anniversary year of their adoption. What is the special significance of the 50th anniversary of the signing of these treaties to the 175 recognized National Red Cross and National Red Crescent Societies, the approximately 12 National Societies in formation, and those yet to be established? Some thoughts on the matter are submitted below.

The Geneva Conventions themselves: National Society recognition, but no monopoly

National Societies, although expressly recognized in three of the four Geneva Conventions, have very few, if any, exclusive rights or roles under those Geneva Conventions.

A number of articles make express reference to National Societies as performing, or potentially performing, a specific function. However, such references do not normally give National Societies an exclusive right, or

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monopoly. Rather, National Societies are cited to illustrate the particular type of organization that may carry out a specified function. The drafters of the 1949 Conventions specifically named National Societies in recognition of the great services they had rendered during armed conflicts in different parts of the world, perhaps particularly during the Second World War. They also, however, worded the articles to enable other organizations with similar characteristics, notably other voluntary aid societies or relief societies, to provide the same assistance.

For example, Article 26 of the First Geneva Convention begins: “The staff of National Red Cross Societies and that of other Voluntary Aid Societies...”; Article 63 of the Fourth Convention provides: “Subject to temporary and exceptional measures imposed for urgent reasons of security by the Occupying Power: (a) recognized National Red Cross (Red Crescent, Red Lion and Sun) Societies shall be able to pursue their activities in accordance with Red Cross principles, as defined by the International Red Cross Conferences. Other relief societies shall be permitted to continue their humanitarian activities under similar conditions...”.¹

Article 44, para. 2, of the First Geneva Convention reserves use of the red cross (and red crescent) emblem to National Societies as an indicative sign, i.e. marking their connection to the Red Cross and Red Crescent Movement: no other recognized relief societies may use the emblem as an indicative device.² However, as an exceptional measure, and subject to national legislation, National Societies may authorize third party ambulances and first-aid posts used exclusively to give free treatment to display the emblem in peacetime (Article 44, para. 4). This may be said to be a type of indicative use of the emblem, given that the National Society must authorize it, and that treatment is free and in line with the concept of voluntary service.

In practice, the right to use the words “Red Cross” (“Red Crescent”) is reserved exclusively to Red Cross/Crescent bodies. Even this is not absolute, however, since the actual treaty text, Article 44, para. 1, permits the medical services of armed forces to use the words “Red Cross” or

¹ The same terminology is used in the two 1977 Protocols additional to the 1949 Geneva Conventions, namely Article 8(c)(ii) of Additional Protocol I and Article 18(i) of Additional Protocol II.

² The international Red Cross and Red Crescent organizations are permitted to use the emblem at all times: First Geneva Convention, Article 44, para. 3.

“Geneva Cross” as well (and, no doubt, by analogy, this would include the designation “Red Crescent”).³

In short, the 1949 Geneva Conventions recognize the National Societies and give them the potential to carry out a range of important humanitarian tasks, both medical and non-medical, during armed conflicts. However, other organizations meeting the same conditions may carry out these functions as well. Even use of the emblem and of the words “Red Cross” or “Red Crescent” are less the preserve of the Movement than one might think.

The Movement’s Statutes: a strong link to the Geneva Conventions

Although the Geneva Conventions themselves may be said to give National Societies a degree of latitude in respect of their commitments thereunder, this is not so for the Statutes of the International Red Cross and Red Crescent Movement (1986), where the importance of the Conventions to National Societies is very clear.

First, five of the conditions for recognition of National Societies contained in Article 4 of the Statutes refer, either expressly or by implication, to the Geneva Conventions: a recognized Society must be constituted on the territory of an independent State where the First Geneva Convention is in force (Article 4, para. 1); the Society must be duly recognized by the legal government of its country on the basis of the Geneva Conventions as a voluntary aid society, auxiliary to the public authorities in the humanitarian field (para. 3); it must use the name and emblem of the Red Cross or Red Crescent in conformity with the Geneva Conventions (para. 5); the Society must be so organized as to be able to fulfil the tasks defined in its own statutes, including the preparation in peacetime for its statutory tasks in case of armed conflict (para. 6); and the Society must be guided in its work by the principles of international humanitarian law (para. 10).

These conditions for recognition — which are, in a sense, operational guidelines — need to be satisfied before official recognition can be

³ The ICRC commentary says that this is “a drafting error, and is completely illogical”. Jean S. Pictet (ed.), *Commentary to the Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field*, ICRC, Geneva, 1952, p. 329. However, there may be organizations

that used the name “Red Cross” or something similar before the adoption of the relevant Geneva Convention, and they may have a right under national law to continue to use their long-established name; but such organizations are rare.

given to a National Society as a component of the International Red Cross and Red Crescent Movement. They must continue to be fulfilled after recognition, and together with the five other conditions for recognition, provide a fixed standard and unifying base for all National Societies.

The conditions cited show the importance of the Geneva Conventions to a National Society: the Conventions help to give the Society a special status with its government and a place in international humanitarian law; the tasks of a Society as a voluntary aid society, as prescribed in the Geneva Conventions, are emphasized, and the Society is required to be guided by the principles of humanitarian law, many of which are contained in the Geneva Conventions.

Article 3 of the Statutes defines the role and statutory position of National Societies, and again there are a number of significant references to the Geneva Conventions or to international humanitarian law. National Societies organize, in liaison with the public authorities, emergency relief operations and other services to assist the victims of armed conflicts as provided in the Geneva Conventions. They disseminate and assist their governments in disseminating international humanitarian law; they take initiatives in this respect. They also cooperate with their governments to ensure respect for the law and to protect the red cross and red crescent emblems (para. 2). Internationally, National Societies, each within the limits of its resources, give assistance to the victims of armed conflicts, as provided in the Geneva Conventions (para. 3).

This provision also covers National Society activities in other areas, notably aid to victims of natural disaster and work promoting health and social well-being. However, it is clear that assistance to victims of armed conflict — the traditional role of National Societies as voluntary aid societies, under the Geneva Conventions — remains one of their main duties. Also, training in non-emergency activities provides much of the experience National Societies need to undertake effectively the duties of a voluntary aid society during armed conflict. And as will be mentioned later, National Societies should do more to capitalize on their specially recognized roles in dissemination and implementation of international humanitarian law.⁴

⁴ These roles have also been recognized in Resolutions of the United Nations General Assembly, of the Diplomatic Conferences of 1949

and 1974-1977 and of various International Conferences of the Red Cross and Red Crescent.

The importance of the Geneva Conventions to National Societies is not only plain in those articles of the Movement's Statutes specifically addressing their recognition and functions. It is also clear from those articles concerning the relationship of the States party to the Movement's components, and concerning the International Conference of the Red Cross and Red Crescent ("International Conference").

Articles 1, para. 3, and 2, para. 1, illustrate that it is through adherence to the Geneva Conventions that the States have institutional links with the Movement, both with respect to the International Conference and to their cooperation with the Movement's components (including, of course, National Societies). Article 2, para. 1, also shows that the cooperation between the States and the Movement's components is based, in part, on the Geneva Conventions, where the ICRC and National Societies have a role to play together with and in addition to the States, and on the Movement's Statutes, in particular Article 2 itself and Articles 8 to 11 on the International Conference. Article 2 commits States party to the Geneva Conventions to establish and to encourage the development of National Societies. Article 2, para. 3, provides for mutual support between the States and the Movement's components, the latter only supporting the humanitarian activities of States. Thus, a special relationship is created between a State and the Movement — in particular, between a State and its National Society — as a result of the State's adherence to the Geneva Conventions.

Article 8 provides that the States party to the Geneva Conventions meet at the International Conference in the exercise of their responsibilities under those Conventions. In other words, the States are members of the International Conference, the Movement's supreme deliberative body, because of their adherence to the Geneva Conventions. Article 10, para. 2, states that the International Conference contributes to the respect for and development of international humanitarian law, and in this function the States' participation at the Conference is especially important.

Thus, it may be said to be from the Movement's Statutes that the significance of the Geneva Conventions to the National Societies is made most clear. The International Conference is a unique humanitarian forum, bringing together both representatives of the States party to the Geneva Conventions and representatives of the Movement's components.⁵ The Movement's Statutes

⁵ Indeed, it may be their participation at the International Conference, that most distinguishes National Societies from other voluntary aid soci-

eties, rather than use of the emblem, association with the Geneva Conventions, or other characteristics.

— adopted by both the States party to the Geneva Conventions and the Movement's components at the International Conference — illustrate that the Geneva Conventions are a main source of the Movement's special character; in particular, perhaps, in relation to National Societies. The latter was reaffirmed when the International Federation of Red Cross and Red Crescent Societies was granted observer status at the UN General Assembly in 1994.⁶

Taking advantage of the role based on international humanitarian law

Although the Geneva Conventions themselves do not generally give the National Societies an exclusive role, the Movement's Statutes have the effect of recognizing a special role for the National Societies in relation to the Geneva Conventions and to international humanitarian law. It is suggested that the National Societies should once again re-examine their publicly recognized role in relation to humanitarian law to reaffirm and, if possible, extend their activities in this field. Unlike many organizations struggling to establish a specific role or niche for themselves, the National Societies already have one, and rather than seek to create a new role, or to emulate the behaviour of other organizations, the Societies should focus on their important roles as defined by international humanitarian law and act in ways which will help to ensure their effective performance.

This is not a new suggestion. Nearly 25 years ago, the Tansley Report, *Reappraisal of the Role of the Red Cross*, noted that the National Societies' basic commitment to assist the victims of armed conflict and to make the necessary preparations beforehand in peacetime, is not, or is not sufficiently, implemented by many Societies.⁷ In 1982, Richard Perruchoud wrote that: "The most crucial problem for National Societies is ... the loss of awareness of their original goal of assistance to the victims of armed conflict". He also observed that "[t]he most serious [shortcoming of National Societies] is without doubt no longer realizing the original goal as the Red Cross principles are really put to the test in humanitarian action in times of armed conflict".⁸

⁶ UN General Assembly Resolution 49/2 of 19 October 1994.

⁷ Joint Committee for the Re-appraisal of the Role of the Red Cross, *Red Cross at National Level: A Profile*, p. 37, and *Final Report: An Agenda for Red Cross*, p. 97, Geneva, 1975.

⁸ R. Perruchoud, *International Responsibilities of National Red Cross and Red Crescent Societies*, Henry Dunant Institute, Geneva, 1982, pp. 67 and 91 respectively.

In recent years, there has been greater public interest in, and awareness of, international humanitarian law and the Geneva Conventions, even if understanding of their content has not greatly increased. This represents both an opportunity and a challenge for National Societies. It is an opportunity because Societies can promote humanitarian law, enhancing understanding both of the subject and of their own special connection with it.⁹ It is also a challenge because many Societies seem unprepared to disseminate international humanitarian law or to assist with its implementation, and because other organizations have taken a greater interest in this subject.

Some additional challenges

Recent developments in international humanitarian law and its practice also pose challenges for National Societies, and may merit consideration in the 50th anniversary year. Some examples follow.

There has been general approval of the adoption of the Statute of the International Criminal Court, and there has been growing recognition of the importance of prosecuting war crimes (including grave breaches of the Geneva Conventions) at the national level. But the approach of all the Movement's components to enforcement of international humanitarian law through criminal prosecutions must, by necessity, appear to be somewhat contradictory. On the one hand, they strongly support efforts to encourage greater respect for the provisions of the law. On the other, given the need for the Movement's components to have access to the victims of armed conflicts, we must keep a distance from actual court proceedings and investigations. National Society personnel working with the ICRC, or undertaking tasks requiring neutrality and confidentiality, should not be compelled to testify in war crimes prosecutions. However, National Society personnel working as part of the medical services of their country's armed forces may be required to do so, in common with other staff of the military medical services.

⁹ The ICRC's People on War project, which welcomes the support of National Societies, is another opportunity to promote international humanitarian law. More generally, the 27th International Conference of the Red Cross and Red Crescent (Geneva, 1999) offers an opportunity to reinforce

the National Societies' role. For the experience of one National Society, see M. A. Meyer, "The role of a National Society in the implementation of international humanitarian law: Taking up the challenge!", *IRRC*, No. 317, March-April 1997, pp. 203-207.

The Geneva Conventions have few rules pertaining to criminal law and procedure, and this matter of testimony, which affects every component of the Movement, needs urgent consideration.

Also, the use of multi-national forces has become more frequent, and it is suggested that an inter-governmental organization, such as the European Union, which has its own common foreign and defence policy, may soon have its own armed forces. The role of National Societies as auxiliaries to the medical services of their country's armed forces may need to be adapted to take account of these developments. For example, should there be a European Union Red Cross Society which fulfils the role of auxiliary to the medical services of the possible EU armed forces? As seen recently in the humanitarian operations related to the Balkans crisis, it remains important that a clear distinction be made between Movement operations and those of parties to a conflict, even if the latter are of a humanitarian nature.

There is a growing number of actors in current armed conflicts: private armies; multi-national companies which have their own armed forces, relief and development NGOs, the media. Existing international humanitarian law seems sufficiently adaptable to cover them all. Will National Societies be prepared to disseminate knowledge of humanitarian law to these new actors, as well as to the established ones? Will they also be ready to use (where appropriate) the new information technologies?

There may be a growing role for National Societies to cooperate with their governments to implement existing obligations of a humanitarian character, and to promote adherence to other treaties of international humanitarian law. Are National Societies ready to do this, and where possible, could they provide technical assistance to sister National Societies which currently lack trained personnel? Could States cooperate with the Movement's components to do more in this area?

And even if much work is done to increase dissemination and implementation, how do we know it works, what standards might be developed to evaluate our effectiveness?

The next 50 years

The preceding section noted some of the trends for the future affecting the Geneva Conventions. Although it is always risky to make predictions, the following might have been achieved by the time the 75th anniversary of the Geneva Conventions is reached, if not the 100th.

The growing convergence between international humanitarian law and human rights law will continue, providing greater protection for individuals in emergency situations of all types, from internal violence to international armed conflicts. This may broaden the National Societies' dissemination role and strengthen their position in providing assistance to victims in a wider range of circumstances.

The standard of implementation of humanitarian law treaties at the national level might have improved to the stage where a State reporting system has been established.¹⁰ This might include reporting on violations of international humanitarian law. Such a mechanism could be designed to be constructive in nature, rather than condemnatory, and involve the provision of technical assistance — perhaps offered by the ICRC Advisory Service on International Humanitarian Law and National Societies — to help improve a State's record in this field.

National Societies could begin to take a role in wider aspects of international humanitarian law, such as in helping to protect cultural property during armed conflicts, and do more to promote the 1954 Cultural Property Convention and its two Protocols.

Non-lethal weapons and other developments in weaponry may, in due course, be an area meriting specific regulation. National Societies would need to be ready to understand such developments, to cooperate with governments in seeking controls, and to help the victims of such weapons, whose injuries may require different and long-term treatment.

The role of National Societies, and the value of the emblem and of the distinctive signs, in remote-controlled armed conflicts involving combat between technologically advanced vehicles and aircraft rather than between armed human beings, may also need to be addressed. Even in such a world of long-range power projection, space-based lasers, etc., there will remain the threat of attacks by small groups, or even individuals, for example with nerve gas which can kill many thousands of people. There would certainly be a role for National Societies in such terrifying circumstances.

¹⁰ In 1998 the International Law Committee of the Danish Red Cross published the outlines of such a proposal: "Voluntary Review Procedure on National Implementation of International Humanitarian Law". This proposal was noted by

the 1997 Council of Delegates, a statutory body of the International Red Cross and Red Crescent Movement, and National Societies were invited to examine the proposal with their respective governments (Resolution 4, paras. 7 and 8).

It is hoped that, at least in the next fifty years (if not sooner), the long-standing and vexing problem of the multiplicity of emblems will be resolved.

During the period to 2049, one or more new additional protocols, or even a revised text of one or more of the four Conventions, may have to be adopted; it will have to be possible to achieve this without putting at risk the humanitarian standards contained in the original 1949 treaties. Should this occur, and if appropriate to the subject matter, it is hoped that the States — and any non-State parties to such agreements — will remain willing to give express recognition to the roles to be played by National Societies under these new international humanitarian law instruments, based on their historic role and continued proven relevance.

It is also hoped that the Geneva Conventions and their Additional Protocols will continue to be interpreted in such a way so that they are applied in accordance with their basic spirit of humanitarianism whilst, at the same time, their terms are adapted (where necessary) to fit contemporary circumstances.¹¹

National Societies, through their humanitarian activities in peacetime as well as during emergency situations, may be able to help address some of the possible sources of future conflicts, such as economic imbalances within and between States, environmental degradation and resource constraints, and migratory pressures. The International Red Cross and Red Crescent Movement generally should be able to contribute towards fostering a more stable “global village” by encouraging justice and cooperation through its neutral humanitarian services. The 1949 Geneva Conventions, although intended, like the earlier Geneva Conventions, to deal with armed conflicts, promote such values, which are relevant in all circumstances.

Whatever happens, the role of National Societies, as neutral humanitarian conduits of impartial assistance, is still likely to be needed.

Final thoughts

National Societies are *not* NGOs: largely by virtue of the Geneva Conventions, they have a special status as private institutions performing cer-

¹¹ The adaptability of the Geneva Conventions was shown during the South Atlantic conflict (1982). During that conflict, a “Red Cross Box” was established in the spirit of the Conventions to provide a

protected zone for hospital ships, and Argentine prisoners of war were accommodated on vessels, rather than in camps on land, to provide them with better living conditions.

tain public functions. Our auxiliary role to government in the humanitarian field, and the way this role enables us to assist people in need, especially during armed conflict, requires re-examination.

The Geneva Conventions seem to have stood the test of time. Their basic principles of impartial aid and voluntary service remain relevant to current armed conflict, and to the philosophy and role of the Movement. National Societies need to renew their acquaintance with the Geneva Conventions as they prepare to strengthen their role, and to meet the needs of the new millennium.

Résumé

L'importance du 50^e anniversaire des Conventions de Genève pour les Sociétés nationales de la Croix-Rouge et du Croissant-Rouge : un regard vers le passé pour mieux aborder l'avenir

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Le 50^e anniversaire des Conventions de Genève de 1949 invite à jeter un regard sur les rapports entre ces Conventions et les Sociétés nationales de la Croix-Rouge et du Croissant-Rouge. Différentes dispositions des Conventions attribuent en effet des droits ou des devoirs aux Sociétés nationales. Mais elles n'ont pas toujours le monopole des activités humanitaires dans les situations de conflit armé. Par ailleurs, les statuts du Mouvement international attribuent aux Sociétés nationales des tâches en rapport avec la mise en œuvre du droit international humanitaire, comme l'assistance aux victimes de conflits armés et la diffusion du droit humanitaire. Parallèlement, ils établissent un lien privilégié entre celles-ci et les États parties aux Conventions. Après avoir examiné la situation actuelle et ses enjeux, l'auteur enjoint les Sociétés nationales d'assumer avec vigueur les divers rôles qui leur sont dévolus par les Conventions de 1949 et les statuts du Mouvement.