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DES SOCIÉTÉS  
DE LA CROIX-ROUGE

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CONTENTS

	Page
The Standing Commission of the International Red Cross and the Problem of Palestine Refugees . . . . .	142
The Sign of the Red Cross by Jean S. Pictet, Director-Delegate of the International Com- mittee of the Red Cross . . . . .	143

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*THE STANDING COMMISSION OF THE  
INTERNATIONAL RED CROSS AND THE  
PROBLEM OF PALESTINE REFUGEES*

In its meeting, held at Geneva on April 5, 1949, the Standing Commission of the International Red Cross Organization paid tribute to the memory of their late President, Count Folke Bernadotte, and proceeded to elect M. André François-Poncet, Ambassador of France, to that office. The President of the Turkish Red Crescent, M. Ali Rana Tarhan, was elected Vice President of the Commission.

The chief item on the agenda was the problem of distributing relief supplies to the Palestine refugees, which has been entrusted to the International Red Cross by the United Nations.

The Commission noted that, in spite of their considerable increase in number which today amounts to some 900,000, the refugees have been assured a relatively satisfactory scale of rations. This was due to funds supplied by various Member States of the United Nations.

Member States who have not yet contributed their share will, it is hoped, provide the amounts due at the earliest possible moment, in view of the extensive requirements in housing, clothing, medical care and pharmaceutical supplies.

In the belief that the refugee problem will not be solved merely by emergency and inevitably transient relief, but that resettlement is the real remedy, the Standing Commission has felt it wise, leaving aside all political considerations, to approach the Secretary-General of the United Nations with a request that this organization consider the matter and seek the means of restoring, without undue delay, many thousands of homeless people to normal conditions of life.

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*JEAN S. PICTET*

*Director-Delegate*

*International Committee of the Red Cross.*

## *THE SIGN OF THE RED CROSS*

### I. ORIGIN AND NATURE OF THE SIGN

#### I. ORIGIN OF THE SIGN <sup>1</sup>

Parsifal, knight of the saga and apostle of pity, bore on his shield a red cross on a white ground ; this recalled by a strange inversion of colours, the white hilt of his sword, embedded in a block of red stone.

In the sixteenth century, Camillo de Lellis, a nobleman of the Abruzzi, founded the Order of Camillans for " the care of all sick persons, whatever their faith... in public and private hospitals, and on the battle-fields". The members of this Order wore a cross of red cloth on the right side of their cape and cloak.

The above are, however, mere coincidences. The red cross emblem came into being at the memorable International Conference which met at Geneva from October 26 to 29, 1863, and which gave the Red Cross a quasi official existence <sup>2</sup>.

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<sup>1</sup> The historical data used in this chapter were carefully collected by the late Perceval Frutiger, whose premature death took place on the day on which he finished his task. The author wishes to pay a grateful tribute to the memory of this learned member of the Committee's staff.

To spare the reader, we are not giving bibliographical references ; these are however available to those who may be interested.

<sup>2</sup> The author prefers to write the " red cross emblem " in small letters, in order to reserve the denomination " Red Cross ", with capitals for the Red Cross conceived as an institution.

However, just as the protection of wounded combatants considerably antedates the Red Cross — since it had been first practised, under occasional short-lived agreements, since the sixteenth century — so the marking of ambulances goes back much further than the 1863 Conference. The flag used was white in Austria, red in France, yellow in Spain and the United States, and black elsewhere. At Solferino the ambulances had a red pennon and hospitals flew a black flag.

Henry Dunant states several times in his manuscript "Mémoires" that at the battle of Solferino in 1859 he realised the need for creating a uniform distinctive emblem and that he expounded this view some days after the battle, at the salon of Countess Verri.

Others had had the same idea before him, but not to his knowledge. In 1858, a French army surgeon, Baudens, published an account of his experiences in the Crimean war, in which he disclosed that medical orderlies tending the wounded at the battle of Traktir had been fired on; he goes on to remark: "Such mistakes would be impossible if, by general consent between the nations, doctors and hospital personnel wore a distinctive emblem, identical in all armies and all countries, which would make them easily recognisable to both parties".

The need for an international sign had in fact clearly emerged and must have been palpably obvious to all those who were concerned with the protection of the wounded.

Dunant did not raise the matter in his "Souvenir de Solferino" because, as he wrote later, his information was incomplete and, above all, because he feared to endanger his plan for introducing first-aid volunteers by asking too much of the States at one time.

On February 17, 1863, at their first meeting, the "Committee of Five"—the parent body of the Red Cross, which subsequently became the International Committee of the Red Cross—discussed the drafting of a Memorandum for submission to the Welfare Congress called for September 1863 in Berlin. General Dufour recommended the introduction in the Memorandum of a statement that "a badge, uniform or armlet might usefully be adopted, so that the bearers of such distinctive

and universally adopted insignia would be given due recognition"<sup>1</sup>.

It is interesting to note that Dunant at the time apparently regarded the armlet as a proof of identity in the eyes of the general staff to which the volunteers offered their services, rather than as a protective emblem to be respected by the enemy.

The Welfare Congress did not take place, and the Memorandum written by Dunant for this purpose was not published. The manuscript, however, has been preserved, and in it the author suggests that the first-aid volunteers should wear "special dress" and "a white armlet".

At the Statistical Congress which took place in Berlin from September 6 to September 12, 1863, Dunant, supported by the Dutch delegate, Dr. Basting and the Prussian medical officers Boeger and Loeffler, did not fail to stress the importance of the distinctive emblem. On the advice, however, of Dr. Basting, he did not mention it in his circular letter of September 15, in order not to alarm the Government by pressing too many demands at once. After the Congress, he several times advised the adoption of a universal distinctive emblem.

Discussions had till then turned solely on the question of an international emblem; no mention had been made of a red cross.

The International Conference which was to launch the Red Cross and which brought together thirty-six delegates from sixteen States, opened in Geneva on October 26, 1863, under the auspices of the Committee of Five. Debates centred on a "draft agreement" written by Henry Dunant and Gustave Moynier, of which Article 9 laid down that "first-aid volunteers shall wear, in all countries, a similar uniform or distinctive emblem". The minutes of the Conference, kept by Dunant, show that the Article in question came under discussion on October 28, and that while the idea of an international uniform was discarded, that of a distinctive emblem was retained. Dr. Appia, one of the Committee of Five, proposed the insertion of the following sentence: "The Conference

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<sup>1</sup> See English Supplement to the *Revue internationale*, March 1949, p. 127.

recommends that a white armlet be worn on the left arm". Later in the minutes the following decisive sentence occurs: " Finally, after some discussion, M. Appia's proposal was adopted, with an amendment to the effect that the white armlet should bear a red cross " <sup>1</sup>. The minutes however give no hint as to who was responsible for this amendment; this small piece of historical research will be taken up later in this paper.

Resolution No. 8, adopted finally on October 29, runs as follows: " They (the first-aid volunteers) shall in all countries wear a white armlet with a red cross, as a universal distinctive emblem ".

The same day, the last of the Conference, it was decided, after adoption of the final text of the Resolution, to add a number of recommendations, one of which was for the creation of a uniform distinctive sign for all regular medical personnel in the various armies, and of an international flag to signalise ambulances and hospitals. The above-mentioned Resolution (No. 8), covered only the armlets worn by first-aid volunteers.

The Austrian delegate, Dr. Unger, proposed that " since the Conference has chosen white with a red cross to distinguish first-aid volunteers, all localities which may harbour wounded and doctors should in future also be marked with this colour ". Surprisingly enough, this suggestion, though timely, was not entertained by the Conference which, both for regular army medical personnel and for hospitals and ambulances, merely recommended the adoption of a universal distinctive emblem, without specifying its nature.

It remained for the Diplomatic Conference of 1864, at which the first Geneva Convention was completed on August 22, to introduce the sign consisting of a red cross on a white ground as the universal distinctive sign for regular army medical personnel and for military hospitals and ambulances. This was the decisive step.

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<sup>1</sup> The red cross emblem is sometimes called the " Geneva Cross ", not because it is shown in that city's coat of arms, but because it came into being at Geneva.

Subsequently it was stated in the revised Geneva Convention (1906), that the sign had been adopted "as a tribute to Switzerland".

Unfortunately, documents hitherto traced give no hint as to who actually invented the red cross emblem: that is to say, who at the 1863 Conference proposed the addition of the red cross to the white armlet suggested by Dr. Appia. However, it is fairly probable that General Dufour was responsible <sup>1</sup>.

In his manuscript "Mémoires", Dunant states that the emblem of the red cross on a white ground was devised by himself and that he even proposed it at the Berlin Statistical Congress. This claim is not, however, conclusive, as the "Mémoires" were written some thirty years after the event, and contain many inaccuracies and contradictions. At different points in the "Mémoires" three different versions are given of the adoption, at the 1863 Conference, of the white armlet bearing a red cross. According to one version a proposal by Dunant for a white armlet with a red cross was adopted; according to another, Appia vigorously maintained that the armlet proposed by Dufour should be white with a red cross; and according to a third, on Appia's proposing that the armlet should be white, Dufour at once suggested adding a red cross.

As remarked above, the last version seems the most likely. The minutes of the Conference record that Appia proposed a white armlet. Verbal accounts traditionally ascribe to General Dufour the suggestion of adding a red cross. The first written narration of events was Appia's obituary notice <sup>2</sup>. Corroborative testimony by Gustave Moynier, given verbally to Paul Des Gouttes, and by General Dufour's daughter is on record. Further, it should be remembered that twenty-two years earlier, General Dufour had brought about the adoption of the white cross on a red ground as the Swiss national emblem, after ten years unceasing labour to that end, and that he introduced the armlet bearing these colours for the Federal troops.

No doubt Dunant was the first to propose that the red cross should be constituted by five equal squares. Any exact definition of the shape of the emblem has, however, always been avoided. Dunant's proposal was certainly made later than 1863. Otherwise, there is no explanation of the fact that in his Memorandum to the Welfare

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<sup>1</sup> The clue may one day be found in the reports which the delegates to the 1863 Conference made to their Governments. This would perhaps be an interesting subject of research for the National Red Cross Societies of the countries represented at that Conference.

<sup>2</sup> *Bulletin international de la Croix-Rouge*, 1898.

Congress he merely advocated the adoption of the white armlet, and that at the 1863 Conference, the emblem of a red cross on a white ground was accepted in two stages. Had Dunant conceived the idea of the red cross before 1863, and had he mentioned it at the Statistical Congress, at the very least his colleagues from Geneva would immediately have proposed the white armlet with a red cross.

It remains to be ascertained whether the emblem of a red cross on a white ground was chosen in 1863 with the conscious intention of reversing the colours of the Swiss flag. This is probable, but not certain. The minutes of that Conference contain no reference in that regard, and it is possible that this analogy did not occur to men's minds till later. The first written allusion to it was made by Moynier in 1870. It has, further, been pointed out that the Swiss flag was flown on the building where the 1863 Conference took place. At all events it was, as stated above, the revised Geneva Convention, adopted in 1906, which finally declared that the emblem was a reversal of the national colours of Switzerland, as a tribute to that country.

## 2. DEVELOPMENT OF THE RED CROSS EMBLEM AND TITLE BETWEEN 1864 AND THE PRESENT DAY

The sign of the red cross on a white ground made its first practical appearance at the beginning of 1864, during the war of Schleswig-Holstein, and before the Geneva Convention was concluded. It was displayed on the armlets worn by the two delegates of the Committee of Five, Dr. Louis Appia, who was attached to the Austro-Prussian Army, and Captain van de Velde, attached to the Danish Army.

During the war of 1866 the white flag with a red cross was flown for the first time; this was in Germany, Austria and Italy.

In the course of the war of 1870-1871, many abuses of the emblem were noted. France, moreover, had provided neither flags nor armlets for her medical services.

Scarcely six weeks after the Conference of 1863 a reproduction of the white armlet with a red cross appeared in the French paper "*L'Illustration*".

The Netherland Society for the Relief of Wounded Combatants was the first, in 1867, to adopt the title of "Red Cross Society", and must therefore receive credit for the creation of the title. The name is, in point of fact, more particularly due to Mme. Basting, wife of the Dr. Basting who supported Dunant so enthusiastically at the Statistical Congress in Berlin, and who represented his country at the Conference of 1863.

This example was followed by some half a dozen Societies. In 1872, the Geneva International Committee urged Relief Societies to conform officially to this designation; "scarcely a better could be devised", the Committee wrote. The organizations concerned showed, however, little inclination to comply, and in 1875 Moynier stated that "generally speaking, they have refused". Ten years later, nevertheless, the use of this title had become widespread.

The Geneva Committee used the title "International Committee of the Red Cross"<sup>1</sup> for the first time in 1875, "though the official title is International Committee for the Relief of Wounded Combatants". The new title and the old one existed by side for four years longer in documents. In 1880 the new title prevailed, and the Committee have borne it ever since. Finally, in 1885, the International Committee sent their first circular to "The Central Committees of National Red Cross Societies"<sup>2</sup>.

The universality of the red cross emblem, however, was not to endure for long.

Turkey, who adhered unreservedly to the Geneva Convention in 1865, notified the Swiss Federal Council in 1876 during her war with Serbia and later with Russia, that her medical

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<sup>1</sup> The Committee are well aware that the proper English rendering of their title would be "International Red Cross Committee". That is the style they used during the first World War and the following years until 1928, when the statutes of the "International Red Cross" (comprising the International Red Cross Conference, the International Committee and the League of Red Cross Societies) were adopted at the Hague. This new title gave rise to frequent confusion and misapprehension, and the English version of the Committee's name was subsequently modified. — *Ed.*

<sup>2</sup> The International Committee's motto *Inter Arma Caritas*, variations of which were used by many National Societies, was adopted in 1888, at Moynier's suggestion.

services would display a red crescent and not a red cross, because "the nature of this emblem was offensive to Muslim soldiers". An echo of the eight Crusades of A.D. 1096 to 1270 can certainly be heard here. Russia, who came into the war in 1877, at first contested Turkey's right to modify a treaty clause unilaterally, and then finally accepted the use of the red crescent, in return for a promise that the Turks would respect the red cross emblem displayed by their adversaries.

The Ottoman Society for the Relief of Wounded Combatants, founded in 1868 under the red cross emblem, was reconstituted in 1877, and therefore was obliged to alter its flag in accordance with that recently adopted for the medical services of the Turkish Army.

At the Hague Peace Conference, in 1899, which elaborated the Convention for the adaptation to Maritime Warfare of the principles of the Geneva Convention of 1864, the Turkish delegate stated that Ottoman hospital ships would replace the red cross flag by the red crescent. His example was followed by the delegates of Siam and Persia, who requested on behalf of their respective countries the right to use the red flame and the red sun. Thereupon the American delegate proposed the adoption, in place of the red cross, of an emblem acceptable to all. The Hague Conference was not competent to amend the Geneva Convention and merely noted the reservations and recommendations made. The International Committee have ever since deplored this infringement of the universality of the emblem.

The 1906 Conference which revised the Geneva Convention confirmed the use of the red cross emblem, admitting no exception to its universality, and it was stressed in debate that it had no religious significance. Turkey, however, who had not been represented at this Conference, adhered to the Convention the following year only on condition that she might use the red crescent.

The 1929 Conference, which produced the present text of the Geneva Convention, recognized, in face of claims by Turkey, Persia and Egypt, the use of the red crescent and of the red lion and sun in countries which already employed them, that is

to say, in the three countries just mentioned. The intention was thus to obviate any extension of the use of special emblems. Several States with Muslim populations however adopted the red crescent after 1929, and the International Committee felt itself obliged to recognize their Relief Societies. But the Committee strongly and successfully opposed the introduction of other special emblems that were suggested, such as the flame, shrine, bow, palm, wheel, trident, cedar, shield, and others. The International Red Cross Conferences which discussed the revision of the Geneva Convention of 1929 again examined the possibility of a return to a single emblem, as will be later described <sup>1</sup>.

### 3. NATURE OF THE SIGN

The red cross on a white ground was intended by the authors of the Geneva Convention to be an international sign, the symbol of aid to the suffering, whether friend or foe.

In the same way, it was intended as a sign devoid of all religious significance, so that it might be honoured by men of all creeds ; this has been stressed at the Diplomatic Conferences held in Geneva. The sign is not the Swiss coat of arms, adapted for use, even though its choice was a tribute to the country which gave birth to the Red Cross. The reversal of the Federal colours created a new emblem bereft of any significance attaching to the national emblem which inspired it.

Furthermore, and the fact deserves a moment's attention, the Swiss flag itself has no religious significance ; at the most it derives historically from a remote and indirect Christian source. The bearing, moreover, is a Greek cross, with equal arms, not the Christian or Latin cross, which is different in shape, the lower vertical member being much longer than the other three. The view that the Swiss cross represents the Christian cross is entirely permissible, since the emblem is that of a country of Christian faith, but this interpretation is a purely personal one.

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<sup>1</sup> See below p. 167.

In 1841 the Swiss Federal Diet decided, at the proposal of General (then Colonel) Dufour, to adopt as the national emblem: "Gules, a cross argent humetty" <sup>1</sup>. This emblem was chosen because it had already appeared, in 1815, on the armband worn by troops carrying out Federal duties and because its use had already become general in the Cantons. The armband in its turn was based on the white cross uncouped on a red ground which had, since 1540, been the banner of troops dispatched as Federal aid and which was the rallying signal for the Confederates. This rallying signal itself originated in the red banner — carrying inset in the upper left hand corner a small white cross — of Schwyz, a mountain community which gave its name and flag to Switzerland. It was a war standard, and had no religious sanction. The Schwyz flag again, almost certainly dates from the year 1289, when the Schwyzers, having lent assistance to Rudolph of Habsburg, received from him as a token of gratitude rather than of piety, the privilege of adding to their standard, at that time plain red, the emblem of the Holy Roman Empire, which was a crucifix. With the passing of years this emblem was reduced to a small Greek cross in the corner of the flag. It has been established that the emblem of the Holy Roman Empire was created by the Emperor Constantine, and one must therefore go back to him to find an authentic Christian origin for the emblem.

It may be added that recent study of prehistoric times shows that the cross in all its forms (Greek, Latin, swastika, ansate, and so on) is one of the most ancient symbols known to man. Excavations in Europe and in Egypt have brought to light articles bearing the so-called Greek cross, dating from many thousands of years before Christ. This sign has often been regarded as a protective talisman.

In 1889 the Swiss Federal Assembly declared that the "arms of the Confederation consist of a white cross, upright and humetty, placed on a red ground, having arms equal to each other and a length exceeding their thickness by one-sixth.

It has been asked whether the statement in the Geneva Convention that the emblem of the red cross on a white ground is formed "by reversing the Federal colours" may not be interpreted to mean that the red cross should have the same shape as the Swiss cross. This is an obvious error. The word

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<sup>1</sup> In ordinary parlance: "On a red ground, a white Greek cross, the members of which do not touch the borders of the escutcheon."

“colours” should be taken literally to mean merely “red” and “white”. If the allusion was to the flag itself the word “reversing” could not have been used. The minutes of the 1906 Diplomatic Conference are moreover very explicit on this point: the shape of the cross was left undefined as a deliberate precaution. Had any hard-and-fast rule, been established, some belligerents might very well have sought to justify attacks on buildings protected under the Convention, on the pretext that the distinctive emblems shown were not of regulation shape. Similarly, unscrupulous advantage might have been taken of a rigid definition to justify the use of a slightly larger or smaller red cross for commercial ends.

For the same reasons, the Geneva Convention does not define the shape of the white ground or the shade of red of the cross, whereas Switzerland has so defined its armorial bearings.

Certain National Red Cross Societies have defined, for their own use—and as is their right—the dimensions of the red cross. The majority seem to have chosen the cross consisting of five equal squares, which is the easiest to cut out of material, as the sides of the squares exactly coincide.

## II. THE USE OF THE SIGN IN PRESENT DAY LAW

### I. THE TWO ASPECTS OF THE SIGN

If the full significance of the Red Cross emblem is to be grasped and the complex problems of its use are to be solved, a fundamental distinction must first be observed. This distinction, obvious as it seems, was not drawn until 1943<sup>1</sup>; its neglect, indeed, long obscured the question and led many astray, particularly during the 1929 Diplomatic Conference.

There are two wholly distinct uses of the Red Cross emblem, having nothing in common beyond the mere outward form of

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<sup>1</sup> Credit for this is due to M. Auguste-Raynald WERNER, in his book *La Croix-Rouge et les Conventions de Genève*, Geneva 1943 (see in particular pp. 125 and 130). Cf. also *Revue internationale*, May 1944, p. 359.

the sign. The first use—whence derives the essential significance of the emblem—is as *a virtually constitutive element of protection* under the Convention. This we shall refer to, briefly, as the *protective sign*. In its second use the sign is *purely indicatory*.

(1). The object of the Geneva Convention<sup>1</sup> is to protect the wounded and sick of the armed forces. In the case of an individual therefore, the two constituent elements of protection are (a) a wound or sickness; (b) membership of the armed forces. Here the distinctive sign is not directly involved.

The Convention goes on to establish other immunities, all of course related to the fundamental protection of the wounded and sick of the armed forces. These affect the personnel tending the wounded, the buildings sheltering them and the material used for their benefit, including means of transport. Constitutive elements of protection, such as membership of the military or naval medical corps, and duties solely concerning the sick, wounded and so on, are laid down at different points in the Convention. However, a further element comes into play: the protected personnel, buildings and material in question must be identifiable as such to the enemy; they must clearly display the distinctive emblem described in the Convention—a red cross on a white ground.

The statement that the emblem is a virtually constitutive element of protection, was made for the sake of exactness; display of the emblem is not always a prerequisite of immunity. For instance, a camouflaged medical unit, not overtly showing the distinctive emblem—a frequent practice of present-day forward units—would still in theory be under protection. Protection could, however, not be given in fact unless the enemy was aware of the presence of a medical formation in the area. The unit would indeed lose the greater part of its protection through being exposed to long distance shelling. But should the area be occupied, then the enemy, once aware

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<sup>1</sup> In the present paper, the customary term "Geneva Convention" refers to the first Geneva Convention of 1864, 1906 and 1929 (especially the last text) for the Relief of the Wounded and Sick of Armed Forces in the Field. This Convention gives the basic ruling for the use of the red cross emblem.

of its character, would be bound to respect the formation and the wounded, personnel and material it contained.

The Geneva Convention makes no terminological distinction. The wording in Article 24 referring to the use of the emblem for buildings, personnel or material, is "to protect or to indicate".

In short, the sign which is a virtually constitutive element of protection, or more simply, the protective emblem, is therefore that symbol which everywhere designates an object of the protection conferred by the Convention. This use has practical importance in war-time, particularly in the fighting zones, and the emblem should then be large in proportion to the object concerned.

(2). The second use of the sign is purely indicatory; in other words, it shows that a person or object is connected with the Red Cross, without being placed under the protection of the Geneva Convention. This use is customary, for instance, when drawing public attention to buildings or publications. The sign must then be, as a rule, of small size and so used as to exclude all risk of confusion with the protective emblem.

## 2. THE PROTECTIVE SIGN

The red cross on a white ground is primarily the emblem of the Geneva Convention<sup>1</sup>. This Convention, in 1864, introduced it into written international law and invested it with its great significance as a symbol of immunity for the wounded and sick of the armed forces.

The Geneva Convention of 1929 carefully and distinctly delimits the use of the protective emblem: it may only designate medical units and establishments (Art. 22), equipment (Art. 20) and personnel (Art. 21). By far its most important function is to mark buildings, in view of their capacity for accommodation and the danger of aerial bombardment. Here it should be noted that, to be effective, the emblem should

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<sup>1</sup> In all cases this term also covers (for the States which employ them) the emblems of the red crescent, or red lion and sun on a white ground.

be as large as possible and visible from all sides. Trial markings carried out by one Government at the Committee's request showed that a red cross on a white surface five metres square, placed on the roof of a building, can hardly be seen at any height above 2,500 metres<sup>1</sup>.

The Geneva Convention of 1929 also regulates the use of the emblem on hospital aircraft; these must be painted white and bear, clearly marked, the distinctive emblem on their lower and upper surfaces. (Art. 18).

Only one other international convention besides the Geneva Convention, namely, the Tenth Hague Convention of 1907, provides for the use of the red cross on a white ground. This is natural, since the express purpose of the Hague Convention is to adapt to maritime warfare the principles of the Geneva Convention of 1906. Thus, the use of the emblem as governed by the Tenth Hague Convention, itself derives its authority only from the Geneva Convention; the Hague text makes explicit reference to that Convention in its single provision relating to the emblem (Art. 5); according to this, hospital ships shall make themselves known by hoisting, with their national flag, the white flag with a red cross required under the Geneva Convention.

Of the bodies entitled to use the protective symbol, the most important are the military and naval Medical Services. Before it became the emblem of the Red Cross organization, the red cross on a white ground was, under the Convention, the international emblem for these Services. Secondly, the Voluntary Aid Societies duly recognised by their Government and acting as auxiliaries to the Medical Corps may use the emblem. These Societies may only use the protective sign, however, for that part of their personnel and material which is in war-time placed in the service of the regular Medical Corps, which is employed on the same duties and on no others, and which is, for practical purposes, merged with the regular Services. Even in this case, the sign may not be used without the permission of the competent military authorities.

The Convention speaks only of recognised Voluntary Aid Societies; however, the National Red Cross Societies are

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<sup>1</sup> See *Revue internationale*, May 1936, p. 409.

certainly included in this category, and in fact are chiefly implied by this wording. These Societies are, as one of the essential conditions of their recognition, authorised by their Governments to lend their services to the Medical Corps. They are by far the most important societies for the relief of the wounded, although certain other organizations do exist. With the Medical Corps, the National Red Cross Societies do not have sole use of the emblem, at least in countries where other organizations have been authorized by the State to co-operate with the Medical Services; amongst these are the Order of St. John of Jerusalem and the Order of Malta.

No organisation other than the regular Medical Services, National Red Cross Societies and certain other recognised societies may use the protective sign.

Civilian hospitals or other medical establishments, even if they belong to a Red Cross Society, may not under contemporary law use the emblem for protective purposes. These buildings in fact come within the purview, not of the Geneva Convention, but of Article 27 of the Regulations annexed to the Fourth Hague Convention (1907) and of Article 5 of the Ninth Hague Convention (1907). According to these Articles, hospital establishments shall be designated "by particular and visible signs which shall previously be notified to the assailants". When within range of naval artillery, they shall display large rectangular screens, divided diagonally into two triangular portions, the upper portion black, the lower white. During the second World War, some belligerent States used a red square on a white ground as a distinctive mark for civilian hospitals.

Other countries adopted the practice of militarizing civilian hospitals in order to place them under the protection of the Geneva Convention and thus to be able to mark them with the red cross. It is evident, however, that if this practice is to be accepted by the adversary, a second condition must be observed, namely, that all hospitals that have been militarized should, in fact, be at least partially reserved for wounded and sick combatants. If these two conditions are fulfilled, it may be considered that the presence of civilian patients in

these hospitals does not render the buildings ineligible for protection, although this would be a wide interpretation of the Convention.

There remains the question of sanctions. The vital significance of the red cross emblem demands that its use should be subject to strict regulations in all countries, and that all abuses should be prosecuted and severely punished. Article 29 of the Convention makes it compulsory for States to take the necessary measures to repress, in war-time, any act contrary to the provisions of the Convention. Further, Article 28 states that misuse or imitation of the red cross on a white ground shall be prevented at all times.

This prohibition applies *a fortiori* to the use of any red cross, whatever the colour of the background, or even without a background at all, since this would constitute more than a mere imitation.

This last Article, although general in effect, makes no distinction between misuse of the protective emblem in wartime, which is a grave offence, and misuse of the purely indicatory emblem for, perhaps, commercial purposes. Revision of the Geneva Convention is desirable in this regard ; further mention of the subject will be made in the next chapter.

*Extension of Use.* — Under the strict law of the two Conventions mentioned above, any use of the protective sign other than those already enumerated is inadmissible. During the last World War, however, the International Committee considered that it should, in the immediate interest of war victims, suggest that in certain exceptional cases, and with the formal consent of Governments, the use of the emblem should be extended to some means of transport used for conveying relief supplies to starving prisoners of war and civilians.

There could be no thought, during hostilities, of consulting all the signatories to the Geneva and Hague Conventions on the solution of such urgent humanitarian problems. Nevertheless, as this question involved an infringement of the basic Conventions, the International Committee thought it should obtain the assent of the belligerent Powers directly concerned,

that is to say, those whose armed forces might, in particular cases and in certain areas, encounter the convoys, the protection of which was contemplated. The Committee adhered to this principle throughout, both to vindicate the generous faith placed in them by the Powers and to ensure the vehicles' safety.

The means of transport chiefly involved were the vessels exclusively employed for the transport of relief supplies for war victims and sailing under the orders of the International Committee, or of National Red Cross Societies. The agreement reached between the various belligerents and the Committee laid down certain conditions, such as the presence on board of the Committee's agents, notification of sailing, courses followed and arrivals, inspection of cargoes, etc., in return for which the belligerents issued the safe-conducts required by each vessel. The ships bore the sign "C. International" and the red cross emblem on a white ground was displayed on both sides of the hull, fore and aft, and on the decks and superstructure. These signs were lit up at night. Similar agreements were made between the belligerent Powers and the Swedish authorities in respect of the vessels carrying relief to Greece.

In the final stages of the war, when the chaos reigning in Germany obliged the Committee to improvise rail and road transport, in order to relieve prisoners and deportees, the red cross emblem was, as an imperative humanitarian necessity, also depicted on the vehicles. The urgent nature of the circumstances precluded any detailed agreement in writing between the belligerents concerned; nevertheless, these were advised of the fact and then gave their consent, although they were unable to guarantee the safety of the convoys. Railway trucks were painted white and bore both the red cross and the emblem of the Swiss Confederation. The motor lorries were also painted white and bore the red cross with the initials "C.I.C.R." between the four members, together with the Swiss Federal Cross.

Mention should be made of a third instance—the large red cross emblem placed on the roof of the Central Prisoners of War Agency in Geneva. This measure was necessary in view of the fact that on several occasions belligerent aircraft attacked

Swiss territory in error, and it was important to mark a building which contained irreplaceable documents. This use did not call for an agreement or notification, as the building was situated in a neutral country.

### 3. THE PURELY INDICATORY SIGN

As already mentioned, the red cross emblem is a purely indicatory sign when used to designate persons or objects connected with the Red Cross. This use does not and cannot imply the protection of the Geneva Convention. The emblem should then be of small size in proportion to the wearer or to the object bearing it ; it should be used in such a manner as to avoid all risk of confusion with the protective emblem. It should also, where possible, be accompanied by the name of the institution employing it.

The two purposes of the emblem are so widely divergent that it might well be wondered why, at the outset, the Red Cross did not adopt two different emblems—one as a visible symbol of the protection conferred by the Geneva Convention, and another for use as the flag of the National Red Cross Societies in all their activities.

The difficulties resulting from the dual significance of the emblem have been shown and will be further exemplified in the course of this paper. The advantages should however also be stressed ; to the public in general the red cross has become a unique symbol of impartial aid to all those in suffering, just as an arrow is, in all countries, a means of indicating direction. The prestige acquired by the emblem in its protective capacity reflects with advantage upon the public welfare activities of the Red Cross, and vice versa. The red cross sign has acquired its mystic ; and, though the indicatory emblem confers no protection in law, if the authorities on occasion allow Red Cross organizations the benefit of the doubt, more good is probably done than harm.

At all events, it is now almost certainly too late to contemplate a change.

The Geneva Convention (Art. 24) authorises the use of the emblem outside its primary function only in two instances : firstly, for the humanitarian activities in peace-time of the recognized Voluntary Aid Societies, of which the principal are the National Red Cross Societies ; secondly, as a concession subject to consent of a National Red Cross Society, to mark in peace-time the position of first aid posts established solely to give free treatment to the injured or the sick.

It should be noted that, in strict law, these two forms of use are permissible only in peace-time. In other words, at the outset of a conflict, the National Red Cross Societies should suspend, without exception, the use of the emblem by all persons and on all buildings or objects not connected with the care of service men, or with the Medical Services of the armed forces. This rule, as may well be imagined, has always been a dead letter. It can be seen from the records of the Diplomatic Conference of 1929, that the delegates had no intention of preventing National Red Cross Societies from using the emblem for their " peace-time " activities, when these were pursued during war. None the less, the wording of the Convention is quite definite on this point.

If the Convention had drawn a distinction between the protective and the merely indicatory symbol, a satisfactory solution would have ensued : the first would have been employed in war-time only, for activities within the specific scope of the Convention, whilst the National Red Cross Societies would have been left free at all times to make use of the second.

According to the Convention, neither the International Committee nor the League of Red Cross Societies are, strictly speaking, entitled to employ the emblem. In Switzerland, however, a municipal law, applying the spirit rather than the letter of the Convention, authorizes them to do so. It has been claimed that the International Committee might be regarded as a recognised Aid Society, under the terms of Article 10, but this is incorrect. The Article deals only with personnel employed exclusively on the same duties as the regular medical personnel of the armed forces. At the most, the spirit of the Geneva Convention may here be invoked. In any case, the

International Committee's right to use the emblem, which they devised and were the first to employ, has never been challenged.

It may be asked, which are the purely indicatory uses of the symbol? A distinction should be made here between what may be classified as the *appertinent*, the *decorative* and the *associative* emblems.

(1). *The appertinent emblem.* — This shows that persons are members of, or that objects belong to, a National Red Cross Society. Reproduced on flags or name-plates, it indicates Red Cross buildings or vehicles. As a badge affixed on nurses' veils or worn in buttonholes, it distinguishes the Society's staff. As a stamp it marks publications, writing paper and parcels. The emblem is, as a rule, accompanied by the name of the organization which uses it.

Whilst active members of National Societies must wear the badge, it may be asked whether it should also be worn by the numerous members or supporters of a Society who merely pay a small yearly subscription, without giving any actual service.

It should be recalled that Art. 24, Par. 3 of the Geneva Convention provides that Red Cross Societies may use the sign in connection with their humanitarian activities in time of peace.

The use of the word "humanitarian" caused lengthy debate during the Diplomatic Conference of 1929. At that time, indeed, the principal aim was to exclude certain activities which were not clearly of a humanitarian character, and the question of the wearing of badges by supporters of Red Cross Societies was not raised in any form. Nevertheless, whatever the intention of its author, a legal text stands by itself, and it would seem that, in the circumstances, the term "humanitarian activities" suffices to preclude the wearing of badges by members who take no active part in humanitarian work.

On the other hand, the use of the emblem by Red Cross Societies is subject to municipal legislation, although this in no way detracts from the restriction imposed by the Convention itself; only very rarely, however, does such legislation deal

with the wearing of the emblem by the Society's members. National laws in most cases merely grant the use of the emblem to a Red Cross Society. Sometimes they state that it is to be reserved "for the members"; in other cases the context makes it clear that members engaged on humanitarian activities only are intended. In some countries, however, legislation is more precise; for instance, the New Zealand law provides that buttons and brooches may only be worn by members in uniform. In Germany, members of the Society are forbidden by law to use the emblem for personal ends.

In most cases the question is left to the judgment of the Red Cross. Reference to the documents will show that the XIIth International Red Cross Conference, held at Geneva in 1925, passed a resolution, reaffirmed at Brussels in 1930, in which it was recommended "that National Red Cross Societies should authorize their members to wear a Red Cross badge only when engaged in their duties; this measure should, in particular, be very strictly enforced in regard to members of the Junior Red Cross".

Enquiry will show that the present-day practices of the National Red Cross Societies vary considerably from one country to another. Some Societies do not allow their members to wear the emblem; others only allow them to display it in certain circumstances, such as during Red Cross assemblies. In contrast, other Societies allow their members to wear it as they think fit: some Societies even sell it in the streets in return for subscriptions.

The question should be further examined in the light of broad Red Cross principles. There is no doubt that all regulations of the emblem were in spirit intended to reserve its use to circumstances in which its essential significance, as a symbol of impartial charitable aid, is involved. In his *Commentaire de la Convention de Genève*, the late Paul Des Gouttes, legal adviser to the International Committee, stated: "The emblem belongs to the Society and not to individual members... Its use by these should not be countenanced except when they are engaged in their duties." The International Committee can only endorse this view, and recommend National Red

Cross Societies not to allow the wearing of the Red Cross emblem by their non-active members, except during mass meetings of the Society.

(2) — *The decorative emblem* — Red Cross Societies use the decorative emblem on their medals and other awards, on propaganda posters or publications, and for the interior embellishment of their premises. In the last instance, the emblem may be large in size, despite the usual rule. At conferences an immense Red Cross flag invariably hangs above the speakers' platform; as in these cases the emblem is displayed inside a building, no one is likely to imagine that protection against aircraft or artillery is being sought.

(3) — *The associative emblem* — In the two instances already mentioned, the emblem is displayed by a National Red Cross Society. As already stated, the Geneva Convention provides for the use of the emblem with the authority of a Society, but not under its auspices, to mark the position of first aid posts established solely to give free treatment to the injured or the sick. First aid posts at crowded public meetings are marked in this manner. Similarly, first aid posts for automobile accidents are a familiar sight on main roads; here, the red cross on white ground with its vivid associations and its immediate connotation of help for all, became the natural marking. This may be called the associative use of the emblem.

One National Red Cross Society recently enquired whether the red cross emblem could be conferred upon members of such bodies as the police force, fire brigades, Alpine rescue associations, railwaymen, and others who have received first aid training. No such authority can possibly be given, since these bodies are not affiliated to the National Red Cross, and because also their first aid work is merely incidental. A relief society cannot expect to be granted the use of the Red Cross emblem unless it engages solely in relief activities and is affiliated to a National Red Cross Society.

The *protective* sign, consisting of a red cross on a white ground as prescribed by the Geneva Convention, should always be displayed in its original form, without alteration or addition.

It is highly desirable that this should also apply to the *appertinent* emblem, as it represents besides the institution, the unique character and the dignity of the Red Cross. Further, to preserve its full significance in the public mind and to prevent misconception, the emblem should not be coupled with that of any institution not connected with the Red Cross.

The *associative* emblem, if it is to retain its full power of suggestion, should be as distinct as possible.

The artist's imagination has, on the other hand, in most countries been allowed free rein in the treatment of the *decorative* emblem; amongst other devices the red cross has been thrown into relief, framed in a gilt edging, set against coloured grounds, or surcharged with lettering or mottoes. Such practices need cause no anxiety, provided that restraint and good taste are observed, and that the decorative emblem alone is used.

On the other hand, abuse of the emblem, even when applied to purely indicative ends, should be energetically repressed. For instance, the lamentable and only too widespread use of the red cross, or Swiss cross as a chemist's sign or a trademark for pharmaceutical, or even pseudo-pharmaceutical products, should be thoroughly eradicated<sup>1</sup>.

Other practices, whilst not constituting actual abuses, should be discouraged. For instance, National Red Cross Societies, and even the International Committee, have on occasion raised funds essential for their work by the sale of objects or badges bearing the red cross. All these actions are, in varying degrees, likely to impair the prestige of the emblem as such, and to compromise the good name of the Red Cross. Worse still, they may indirectly diminish the value of the protective symbol: it should always be remembered that the emblem, despite the varying legal significance of its use, remains in all cases a red cross on a white ground. Thus every portrayal

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<sup>1</sup> Medical practitioners and chemists might in justice lay claim to a distinctive emblem for their houses, cars, or indeed their own persons. But instead of seeking to acquire the red cross as that emblem, which is quite impossible, they should adopt the staff of Aesculapius (which has often been confused with the caduceus, symbol of commerce), as has been suggested by French and German medical authorities. Pharmacists could display the ancient symbol of their profession, the serpent coiled round the cup of Hygeia, the daughter of Aesculapius.

of the red cross reinforces or weakens, to a certain extent, the mystic associations of the sign in its highest connotation. The emblem at all times bears within itself a lofty significance, that of Samaritan brotherliness. If members of Red Cross Societies are not allowed to wear their badges except when engaged in their duties, still less should the emblem be reduced to the level of a mere label for commercial houses—otherwise, its presence on articles that have no relation to charitable work will dull men's realisation of the sanctity of its use in other, crucial circumstances.

### III. THE USE OF THE SIGN UNDER FUTURE LEGISLATION

The International Committee, it is well known, is continually engaged in the task of perfecting the humanitarian Conventions. A draft revision of the Geneva Convention was to have been submitted to the Diplomatic Conference that was convened for 1940, but adjourned on account of the war. In 1945, the Committee resumed their work and elaborated four revised or new Conventions with the active help of Government experts, National Red Cross Societies and other humanitarian organizations. The principal stages of the work were marked by the Preliminary Red Cross Conference in 1946, the Conference of Government Experts in 1947, and the XVIIth International Red Cross Conference held at Stockholm in August 1948. This last meeting approved the drafts presented by the Committee, after making certain amendments, and recommended that the States should meet in Diplomatic Conference, at the earliest possible date, in order to give these Conventions their final form. The Swiss Government, in its capacity of depositary State for the Geneva Conventions, has convened the Diplomatic Conference for April 21, 1949.

The provisions of these Draft Conventions which relate to the red cross emblem, and the suggestions that can still be usefully be made should now be considered.

The general question of the *plurality* of emblems must here be reviewed <sup>1</sup>. The Commission which, in 1937, drew up the first Draft Revision of the Geneva Convention, unanimously deplored the abandonment of a single emblem by the introduction, in 1929, of other exceptional emblems in addition to the red cross, namely the red crescent, and the red lion and sun. The Commission thought that it would be desirable to return to earlier practice and pointed out that the red cross is an international symbol, that it is devoid of any religious significance, and that it was illogical to replace it by other symbols. Furthermore, such a course would create the risk of confusion with national flags, particularly in the case of States whose national emblem is a red symbol on a white ground. The Commission recommended that, in any case, the text of the Convention should permit no exceptions whatever to the unity of the emblem, other than those which are now accepted.

The Preliminary Red Cross Conference (1946) discussed the question once more. Some Delegations spoke emphatically in favour of restoring the universal character of the emblem. They also recommended that the real meaning of the red cross emblem be brought home to the populations of Eastern countries. One delegate pointed out that no country had ever objected to the use of a cross as an arithmetical sign denoting addition.

The representative of a country using the red crescent, supported by other Delegations, however stressed that it would be impossible for the time being to introduce the red cross emblem in Muslim countries, as this would deeply offend the religious sentiments of the population. He fully appreciated the advantages of reverting to the former practice and did not believe it impossible that unity, although impracticable at the present, might be restored at some future time.

The Conference thereupon refrained from suggesting any amendment in this connexion.

The subject was again discussed by the Government Experts (1947) and, quite recently, by the XVIIth International Red Cross Conference. The latter meeting abstained from amending

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<sup>1</sup> See p. 151.

the present wording, but recommended that the Governments and National Societies concerned should endeavour to return as soon as possible to the unity of the red cross emblem.

As possible solutions of this delicate problem the following may be considered worthy of study.

(a) — The Geneva Convention might henceforth refuse to countenance the use of exceptional emblems, save as a provisional measure ; it might fix a period—for instance, ten years—during which all such symbols must disappear. The countries using extraneous emblems could thus start educating public opinion at once and gradually substitute the red cross for any foreign emblems.

(b) — The emblem of the red cross on a white ground might be employed in all countries. In certain exceptional cases, countries would have authority to add, in one corner of the flag, a particular symbol of small dimensions <sup>1</sup>. This additional sign would hardly impair visibility, and would relieve the principal emblem of the peculiarity which is a stumbling-block to certain populations.

The above course might also provide the solution of a difficult problem which has recently arisen. The Society of the "Magen David Adom" (Red Shield of David), which acts as the Israeli Relief Society, is anxious to obtain recognition as a member of the International Red Cross, while retaining the right to use as emblem the red shield—a red six-pointed star in the form of two intersecting triangles—on a white ground. This request certainly is not admissible in the present state of international legislation. It is, further, impossible to entertain the proposal to introduce a third exceptional emblem as a permanent measure, as this would open the door to such a host of further applications that the Red Cross and the Geneva Convention would both be seriously imperilled. It must, however, be admitted that the above Society would be entitled, possibly as much as the corresponding society of Iran, to claim a symbol which is neither the cross, nor the crescent. The above solution would allow the red shield to be inscribed in the corner of the flag.

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<sup>1</sup> See inset Fig. I.

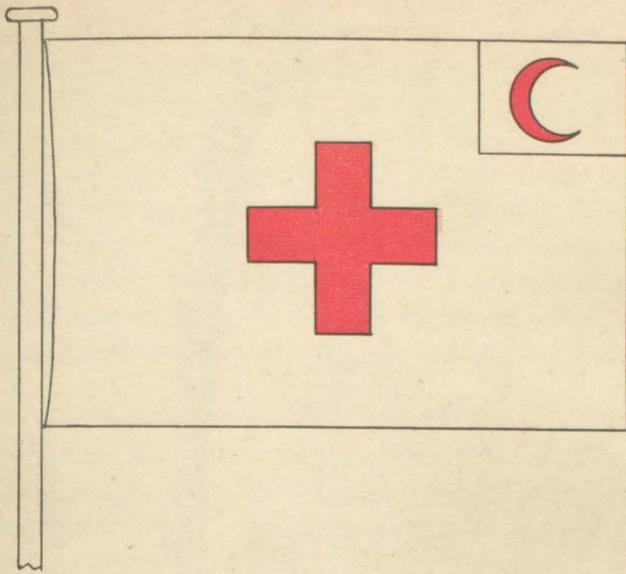


Fig. I. Red Cross Emblem with particular sign of small dimensions inset.

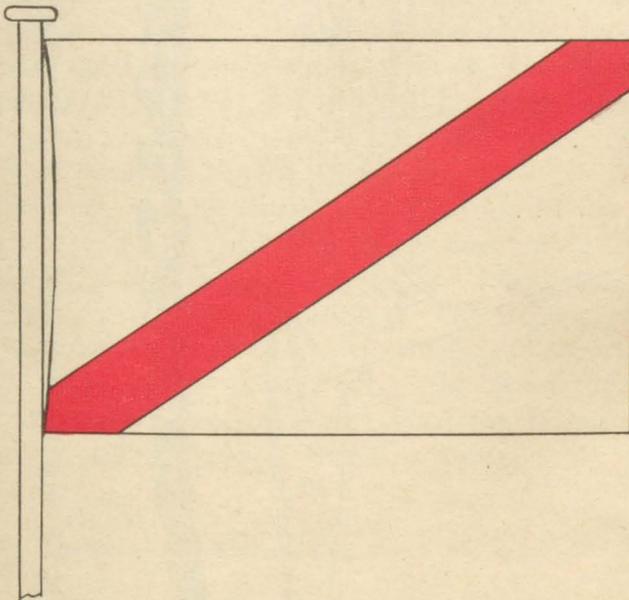


Fig. II. Example of an emblem, for use as the sole exception to the universal Red Cross Emblem.

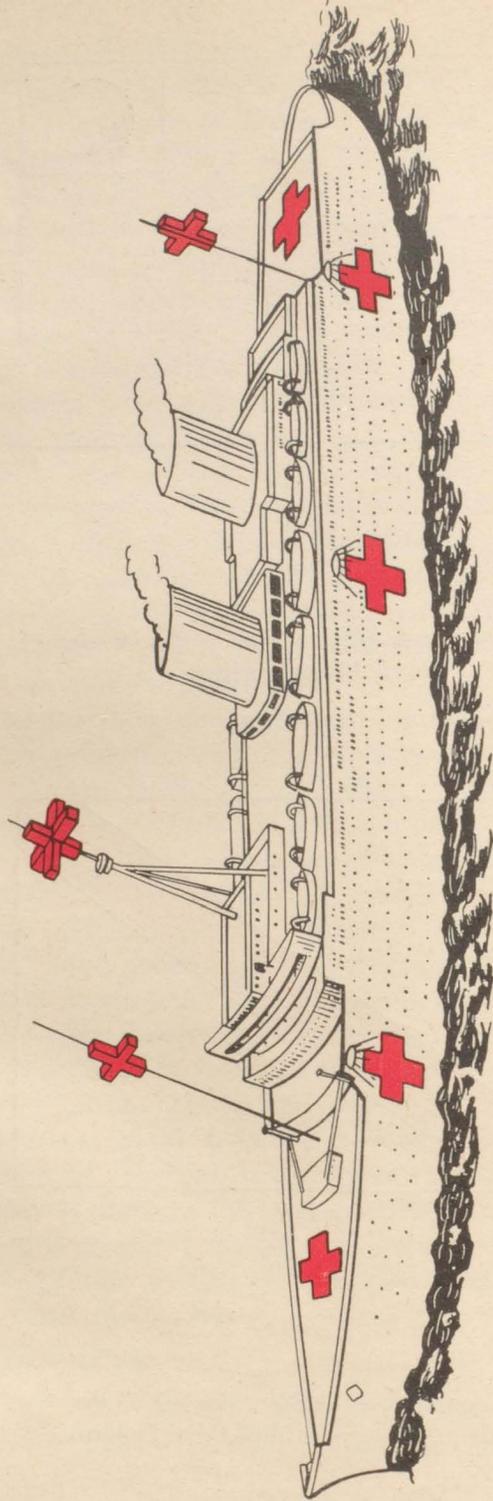


Fig. III. Markings of Hospital Ships, as recommended by the XVIIth International Red Cross Conference.

(c) — The Geneva Convention might recognize, besides the red cross, one single exceptional and entirely new emblem, which would be employed by all the countries unable to adopt the red cross. This new emblem would therefore replace both the red crescent, and the red lion and sun ; it would be strictly neutral, easily recognizable from a distance and bear a name acceptable to Relief Societies in the countries concerned. A white flag showing an oblique, vertical or horizontal band might be considered for adoption ; it might be called the " red flame " <sup>1</sup>. A red chevron or red square on a white ground might also serve.

(d) — Iran, the only State using the red lion and sun, might abandon that emblem and use the red cross or red crescent. The crescent would then be the only special emblem in use, and a firm and constant resolve never to recognize any other exceptional emblem would thereby be signified.

## 2. THE PROTECTIVE SIGN

Article 36 (new) of the Draft Revised Geneva Convention <sup>2</sup>, as adopted and amended by the XVIIth International Red Cross Conference, delimits the use of the protective emblem as strictly as did the 1929 text, but the new wording is clearer in that it draws, at long last, a distinction between the protective and the purely indicatory uses of the emblem.

Article 40 (new), of the Revised Draft of the Tenth Hague Convention <sup>3</sup> provides, as hitherto, for the use of the emblem by hospital ships. It had been long since recognized that merely to hoist a flag, as prescribed in 1907 when aerial warfare was unknown, was totally inadequate. The experts who met in 1937 recommended that the deck, funnels and superstructure of hospital ships should display large red crosses on a white ground. During the second World War, the belligerents did in fact adopt such markings. There is documentary evidence

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<sup>1</sup> See inset Fig. II.

<sup>2</sup> See the English supplement to the *Revue internationale*, Dec. 1948, pp. 214-15.

<sup>3</sup> *Loc. cit.*, Feb. 1949, pp. 105-06.

to show that attacks on, or the destruction of, hospital ships resulted in most cases from a lack of modern markings.

On the suggestion of the American experts, the XVIIth International Red Cross Conference adopted full and exact prescriptions for the marking of hospital ships. Large red crosses must be displayed in prominent positions, and be supplemented by an ingenious, if somewhat complicated, system for illumination by night; this consists of a three-dimensional luminous cross having three parallelepipedal<sup>1</sup> limbs, one vertical and two horizontal; of these horizontal limbs one would be placed lengthwise to the ship and the other at right angles. An automatic interrupter (optional) would provide flashing and alternating illumination of the two horizontal members. Thus from any side a cross, and one cross only, will be visible<sup>2</sup>. Other Governments will probably advise a totally different system, that of painting the whole ship orange, or orange and black.

Besides the Geneva and the Maritime Conventions, the new Draft Convention for the Protection of Civilian Persons in Time of War contains provisions on the use of the red cross emblem.

The Draft submitted by the International Committee to the XVIIth International Red Cross Conference provided that civilian hospitals, recognized as such by the State and organized to give permanent care to the wounded and sick, the infirm and maternity cases, should be distinguished by means of the red cross emblem. This was the only extension of its use admitted, and that only after serious misgivings.

The XVIIth Conference went still further and proposed that the use of the red cross emblem be extended to all transports conveying wounded and sick civilians and to all personnel in charge of them, provided they wore armlets. (Art. 18 and 10 (a).<sup>3</sup>

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<sup>1</sup> That is, with a rectangular cross-section — *Ed.*

<sup>2</sup> See inset Fig. III.

<sup>3</sup> For text of these Articles, see English supplement to the *Revue*, Jan. 1949, p. 10.

No doubt the XVIIth Conference was prevented by want of time from studying all the aspects of the problem and from assessing the full effect of the proposed extension. At all events, this seems to the International Committee to be a most dangerous innovation, since any widening of the applicability of the red cross emblem will inevitably entail a far greater risk of misuse and violation ; this in turn might compromise the repute attaching to the emblem and undermine its very great significance and good name. Hitherto, the use of the emblem has been confined to the clearly defined category of persons who are subject to military discipline. Even in these circumstances, the prevention of misuse has met with no small difficulties. Towards the end of the last world War, misuse of the emblem was so persistent in certain battle areas, where fighting was particularly heavy, that the emblem was abandoned by units entitled to use it. If, therefore, the use of the emblem is extended to ill-defined categories of civilians, scattered over the country, who are not subject to discipline, proper registrations or strict supervision, the combating of abuse would become impracticable, and the consequences would be borne by those who are legally entitled to protection.

Members of the army medical service were authorized to wear the emblem solely because they belong to the category of military personnel, that is to say, those who may lawfully be attacked, those whom soldiers through the centuries have been trained to fire on.

The law of nations, however, rests on the principle that hostilities should be confined to armed forces, and that civil populations should be generally immune. The whole economy of the new Civilian Convention derives from this acceptance. Since it is illegal to fire upon any civilian, clearly it is illegal to fire upon civilians in charge of the sick. Article 13 of the new Convention <sup>1</sup> expressly states, in fact, that the parties to the conflict shall allow medical personnel of all categories to carry out their duties. To seek protection for certain categories of civilians would be an admission, at the outset, that the new

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<sup>1</sup> *Loc. cit.*, p. 148.

Convention would not be respected in the case of other civilians ; this would be a confession of poor faith in the new treaty, and would weaken its authority.

We therefore hope that this extension of the use of the emblem will not appear in the final text. An exception might perhaps still be made for the use of the emblem by the regular staffs of civilian hospitals, who are a well-defined category of persons, duly registered by the State and holding identity documents to that effect. On the other hand, if a protective emblem for all civilian medical personnel is still desired, it would be better to abandon altogether the use of the red cross emblem for civilians, and even for civilian hospitals, and reopen the question of creating a special sign for them<sup>1</sup>.

It will further be observed that the Draft Agreement for Hospital and Safety Zones, annexed to the Revised Geneva Convention and the new Civilian Convention, provides for the special marking of these zones by means of oblique red bands on a white ground ; however, zones reserved exclusively for the wounded and sick may display the Red Cross emblem. This clause is a direct consequence of the text of the Geneva Convention and the extension of the emblem to recognized civilian hospitals.

A final word on the *repression of abuses*. It has already been shown that Article 28 of the 1929 Convention, requiring the Parties to prevent misuse of the Red Cross emblem, makes no distinction between abuse of the protective sign in war-time—which is a grave offence—and misuse, perhaps by commercial undertakings, of the purely indicative emblem. This confusion is in fact reflected in the municipal laws giving effect to the said treaty provision.

This unfortunate state of affairs doubtless arises from the longstanding misconception over the fundamental distinction that we have drawn between the two types of sign. There are, as we have shown, two kinds of misuse, widely different in nature. This distinction should certainly entail two separate provisions.

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<sup>1</sup> See above p. 165, note 1, remarks on a special sign for medical practitioners.

Misuse of the protective emblem in war-time should be liable to extremely severe penalties. The improper use of the red cross on buildings in a zone of military operations is likely to compromise the security of buildings lawfully entitled to display it. It should be noted that the Geneva Convention of 1906 stipulates in Article 28 that misuse of the emblem should be "punished as an unjustifiable adoption of military markings". The same phrase appears in the Tenth Hague Convention of 1907; it thus still applies to vessels.

### 3. THE PURELY INDICATORY SIGN

Article 36 of the Draft Revised Geneva Convention<sup>1</sup>, which deals with the indicatory emblem, in our opinion successfully reconciles anxiety to prevent ill-considered extensions of the emblem's use, with the need to adapt the law to regular practice. Since the distinction between the two uses is clearly drawn in the text of the Convention itself, the extended use of the indicatory emblem authorized by the Convention, as compared with the strict 1929 text, may safely take place.

National Red Cross Societies may at all times, in accordance with their municipal legislation, make use of the emblem for their other activities, i.e. those outside their service with the military or naval Medical Corps, provided these activities are in conformity with the principles laid down by the International Red Cross Conferences. One vital provision precludes abuse: only the purely indicatory emblem may be employed. To this effect the Draft Revised Convention forbids the use of this emblem in fighting areas. Further, the conditions for the use of the emblem shall be such that it cannot in war-time be taken as conferring the protection of the Convention; the emblem must be of small size, and may not be worn as an armlet.

The clause to the effect that National Red Cross Societies might, even in time of war, make use of the emblem for their other activities "which are in conformity with the principles

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<sup>1</sup> See English supplement to the *Revue*, Dec. 1948, p. 214-15.

laid down by the International Red Cross Conferences", was adopted for a definite purpose and solves a problem which has long been a subject of debate.

The activities of the National Red Cross Societies which were first limited to the care of the wounded and sick of armed forces<sup>1</sup> have, from the outset, been steadily extended, so that they now include all, or nearly all, forms of human distress; nevertheless, their relief efforts had always been devoted to direct victims of war or social upheavals. During the last World War, the Red Cross Societies of some countries opened up a new field of work. This consisted of social or patriotic activities, such as sending parcels to men at the front, organizing welfare and recreation for fighting troops, giving them swimming instruction, assisting their families, and so on. Thus for the first time, the Red Cross was concerned with those who were not actual war victims.

During the 1946 Preliminary Conference, the International Committee, whilst not wishing to deprecate in any way the extremely valuable activities mentioned above, drew attention to this new development. They stressed the fact that it might, by a gradual process of extension, cause the Red Cross eventually to lend its name and emblem to activities only remotely related to its real character and essential aims.

It quickly became apparent that the scope of the Red Cross activities could not be defined by drawing up a list of permitted and forbidden tasks. It was seen that a "yardstick" by which each individual case could be measured, would have to be applied: that each individual project would have to be appraised in relation to a standing criterion. This yardstick must of course be the body of fundamental principles laid down by the International Red Cross Conferences.

To conclude the study of the new Article 36 of the Geneva Convention which has been included in the latest revised

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<sup>1</sup> In 1870, the International Committee refused to allow the use of the red cross by the Prisoners of War Agency set up in Basle, on the grounds that its services were given to men who were not wounded. The said Agency flew a flag showing a green cross.

draft, it may be observed that the international organizations of the Red Cross (the International Committee and the League) are expressly authorised to make use of the emblem.

Moreover, the sign we have described as *associative*, hitherto reserved for first aid stations, may now be extended, with the consent of the National Red Cross, to motor ambulances. As under the laws of many countries these ambulances have the right of way, in common with fire-brigade vehicles, they should bear visible and uniform markings. Such is, in fact, the usual practice.

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It seems therefore likely that the future ruling will strike a satisfactory balance between the widespread use of a justly famous emblem, and the need to protect that sign against any loss of its essential authority and good repute. Nevertheless, the Red Cross must now more than before be vigilant in the defence of this symbol, which it holds in sacred trust and must keep unsullied.

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