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FINAL RECORD  
OF THE  
DIPLOMATIC CONFERENCE OF GENEVA  
OF 1949

VOL. III



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*Diplomatic Conference for the Establishment  
of International Conventions for the  
Protection of Victims of War Geneva,  
1949.*

# FINAL RECORD

OF THE

DIPLOMATIC CONFERENCE OF GENEVA

OF 1949

VOL. III



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VOL. III

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## ANNEXES



## EXPLANATION NOTE

The annexes are arranged as follows:

- Nos. 1 - 6 — Rules of Procedure of the Conference, Recommendations by the Bureau of the Conference;
- Nos. 7 - 61 — Wounded and Sick Convention;
- Nos. 62 - 78 — Maritime Warfare Convention;
- Nos. 79 - 185 — Prisoners of War Convention;
- Nos. 186 - 382 — Civilians Convention;
- Nos. 383 - 403 — Final Act, Credentials, Resolutions, etc.

All the annexes relating to the four Conventions are arranged in the numerical order of the Articles to which they refer, irrespective of whether the texts were submitted in Committee, in sub-Committee or at a plenary meeting of the Conference.

Amendments submitted at plenary meetings of the Conference have been placed immediately after the other annexes relating to the same Article. An amendment marked "Plen" is one which was submitted at a plenary meeting.

Texts which concern the common Articles have been given in the annexes relating to the Wounded and Sick Convention, references to the annexes in question being given under the corresponding Articles of the other three Conventions. E.g. the text adopted by the Special Committee for Article 38/42/117/128 (Annex No. 48) follows the annexes relating to Article 37 of the Wounded and Sick Convention and comes before those referring to Article 39 of the same Convention, and a reference to Annex No. 48 is made under Article 42 of the Maritime Warfare Convention, Article 117 of the Prisoners of War Convention and 128 of the Civilians Convention.

Figures in small print, which follow those showing the number of an Article, indicate the paragraph referred to.

The numbering of the Articles is this used during the session of the Diplomatic Conference. It therefore does not correspond with the definite numbers of the Articles of the Conventions. For this purpose see the reference tables showing the relationship between the Articles of the Draft Conventions which were taken as the basis for discussion at the Diplomatic Conference and the Articles of the Geneva Conventions of August 12, 1949. (Vol. I. Page 383 and Vol. III. Page 203.)



## ANNEXES

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<b>Draft Rules of Procedure</b> <i>Draft Resolution submitted by the United Kingdom Delegation . . . .</i>	<b>No.</b> <b>1</b>
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Procedure Committee :

1. It is resolved that a Committee of the Plenary Conference consisting of seven members be set up to consider the Draft Rules of Procedure.
2. The Committee shall meet forthwith and consider any proposals or amendments to the draft rules that may be submitted in writing or verbally.
3. The Committee shall report to the next Plenary Session of the Conference.

<b>Report of the Procedure Committee . . . . .</b>	<b>2</b>
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Three meetings of the Procedure Committee have been held : on April 22nd at 10 a.m. and 8.30 p.m. and on April 25th at 4.30 p.m.

The Committee unanimously elected Minister Jamil MIKAOUI, Head of the Lebanon Delegation, as Chairman and also entrusted him with the office of Rapporteur. The Minister Staffan SÖDERBLOM, Head of the Swedish Delegation, was unanimously nominated as Vice-Chairman.

The discussion of the Committee took place in a most co-operative spirit so as all the decisions, with the exception of five, could be taken unanimously.

The Committee studied each rule separately of the Draft Rules of Procedure adopted by the Conference during the second Plenary Meeting and the amendments proposed by the Delegations of Turkey, the United Kingdom, the Soviet Union and Switzerland, and the amendments presented orally by the different delegations during the debates of the Committee.

With regard to Rule 1 of the Draft Rules of Procedure, the Committee, considering that it would be an advantage for the new Conventions to be as universal as possible, added a second paragraph to this Rule. By this new provision, the Conference may request the Swiss Federal Council to invite any State to partake in the Conference which has not adhered to either of the Conventions mentioned in the first paragraph of Rule 1.

Rule 2, which provides for the admission of governmental and inter-governmental observers, gave rise to a rather lengthy discussion. A suggestion was unanimously adopted stipulating that these observers should be granted the right to ask to address the meeting. Opinions on the subject of the admission of non-governmental observers were however greatly divided. Some delegations considered that the circle of observers should be extended as far as possible; others were of the opinion that such a measure was not without risk and one delegation expressed the opinion that non-governmental organizations might be admitted as experts in virtue of Rule 3. As complete agreement could not be reached, the Committee finally approved, by four votes to three, a second paragraph to Rule 2, which provides that non-governmental observers should have the same rights as governmental observers, with the exception of the right of asking to address the meeting.

Rules 3, 4, 5 and 6 were unanimously adopted without modifications.

In consideration of the decision taken by the Conference during the second Plenary Meeting, the number of Vice-Presidents for the Conference was changed from three to five in the text of Rule 7. Further, the Committee deleted the provision for the Conference to elect four Tellers, on the grounds that it was preferable for the President personally to nominate the Tellers required for each secret ballot. The same modification

was made in Rule 8, in regard to Committees. With the view that one Vice-Chairman would suffice for small Committees, the Committee also inserted into this Rule the words "one or two Vice-Chairmen" instead of "two Vice-Chairmen".

Rule 9 was approved without alteration.

A proposal was submitted to enumerate in Rule 10 the Committees of which the Chairmen shall be members of the Bureau of the Conference, so as to avoid any confusion when new Committees are being set up. Some delegations considered that, in accordance with the usual custom at international conferences, the Chairman of the Credentials Committee should not be a member of the Bureau of the Conference; the Committee did not accept this point of view, and the amendment was adopted by 3 votes to 2 with 1 abstention.

Rule 11 was approved without alteration.

In Rule 12, concerning the work of the Bureau of the Conference, the Committee deleted the words "coordinate the work of the Committees and in a general way", on the grounds that this was the work of the Coordination Committee.

The setting up of a Bureau for each Committee was not considered necessary and Rule 13 was deleted, whereby the numbering of the following Rules has had to be altered. In the present Report this alteration has not been taken into account.

Rule 14 of the Draft Rules of Procedure remains unaltered, whereas the following addition was made to Rule 15 in regard to the work of the Secretariat: "to produce translations in accordance with Rule 39". Rules 16, 17 and 18 were approved without modifications.

Concerning Rule 19 the Committee was of the opinion that the Coordination Committee should not be empowered to impose decisions on Committees I, II and III, but only to make recommendations with a view to adjusting the texts of the four Conventions. A new wording of this rule was adopted, which clearly defines the functions of the Coordination Committee along those lines.

In Rule 20 the part of the sentence which provides that the members of the Drafting Committee need not belong to a delegation was deleted. This provision would in fact appear to be in contradiction to Rule 35, which gives each member of the Committee the right to vote. The increase from 7 to 9 of the membership of the Drafting Committee did not obtain an unanimous vote from the delegates. A certain number of members of the Committee were of the opinion that in order to perform a useful task the number of members of this Committee should be as low as possible, whereas others had expressed the wish that a large number of linguistic groups should be represented in this body. The amendment was finally accepted by 5 votes to 1, with 1 abstention.

Rule 21 of the Draft Rules of Procedure was accepted without alteration.

The Delegates from Costa Rica, Nicaragua, Guatemala, Liechtenstein and Greece proposed to the Committee that a second paragraph should be added to Rule 22, the wording to be as follows:

"Should the number of delegates of any one country be insufficient to permit of that country participating in the work of each of the Committees, the head of the delegation concerned may arrange for the delegate of another country to take his place."

This amendment gave rise to considerable discussion. The authors, who were present at the meeting as observers, pointed out that twelve countries were represented by one delegate only, and nine others were represented by two delegates. They emphasized the interest of these small countries in the work of the Conference and drew the attention of the Committee to certain precedents in the procedure they proposed, such as, for example, the conferences sponsored by the International Telecommunications Union. The members of the Committee while underlining the sympathy felt for small countries, and the interest of the Conference in collaborating with them, made certain reservations on this subject. It was observed first of all that this arrangement might lead to confusion in the case of votes by show of hands and would greatly complicate the task of the Secretariat when the count took place. Certain very difficult and delicate juridical problems would arise from the suggestion, such as for example, the powers of the representatives of a Government and that of the delegation of these powers. It was suggested that it might be possible to give satisfaction to the authors of this suggestion by replacing

the words "member of his delegation" by „delegate to the Conference" in the text of Rule 24, or by amending the text of Rule 35, which deals with the right to vote. The Committee, however, did not feel competent to solve these questions and unanimously decided to recommend that the Plenary Conference should establish a Working Party composed of five specialists on international law to examine this amendment. The text of Rule 22 as it appears in the Draft Rules of Procedure was then approved.

Rules 23, 24 and 25 were approved without alteration.

The Committee introduced an amendment to Rule 26 requesting that the text of amendments and suggestions, excepting in cases where they are very brief or simple, should be circulated to delegates at least 24 hours before discussion.

The same time limit is mentioned in Rule 27 which deals with the reports of Committees, with the exception, however, of those issued by the Credentials Committee.

Rule 28 was made more precise.

Rule 29 was approved without alteration.

The procedure for voting on motions and amendments was described with greater detail in Rule 30, in the same manner as the procedure concerning points of order in Rule 31, and motions for closure of discussions in Rule 32.

The text of Rule 33 was also clarified.

The proposal to insert at the end of Rule 34 "by a majority of two-thirds of the delegates present and voting" instead of "by a majority of two-thirds of the delegates present" was rejected by 3 votes to 2 with one abstention, the reason being that some of the delegations considered that the bringing up for reconsideration of decisions already taken should not be encouraged.

A proposal to insert a fresh rule entitled 34a, relating to a quorum, was rejected by 3 votes to 3.

Rule 35 was approved with a slight amendment.

Rule 36 was amended; paragraph 1 in the new text stipulates that all decisions, with the exception of those mentioned in Rule 34, shall be taken on a simple majority vote by the members present and taking part in the voting; abstentions will not be taken into account when calculating this majority. Paragraph 2 defines the procedure to be followed in cases of a draw; such a result in Committees will be considered as a reject; in any case, the question will be examined afresh at the Plenary Meeting. A motion which has been rejected owing to the votes being equal at a Plenary Meeting may, on the other hand, be voted on again at the request of one of the delegations after a time-limit of 24 hours.

For Rule 37 a new wording was adopted. At the request by three delegations, it provides for vote by roll-call or a secret ballot upon decision to that effect by the Conference or the Committees, and not, as suggested in the Draft Rules of Procedure.

Rule 38 was adopted without amendment.

Rule 39 was modified to the effect that an authorization by the Conference shall not be required for the use of languages other than the working languages; however, interpretation into one of the working languages shall nevertheless be provided for by the delegation concerned.

The provision of Rule 39 that in case of discrepancies the French version shall be held to prevail was eliminated, since the Committee were of the opinion that the original text should be authentic.

The same modification was made in Rule 41 with regard to the Final Records of the Proceedings of the Conference, but for another reason: in these records shall be contained the text of the Conventions in the draft of which such a provision is already included. If the latter is approved, the States shall be bound by the said provision only, and not by any provision of the Rules of Procedure.

Rules 40, 42 and 43 were adopted without amendment.

Regarding Rule 44 the Committee adhered to the wording adopted by the Conference at its second Plenary Meeting for the Provisional Rules of Procedure.

Rule 45 was adopted without amendment.

The Procedure Committee, in presenting the text thus amended of the Draft Rules of Procedure believes that this text constitutes a useful basis for the work of the Conference and recommends to the Conference to approve it. This could be done by adopting the Draft Resolution given in Appendix I of this Report.

Furthermore, the Committee wishes to draw the attention of the Conference to the amendment to Rule 22 as proposed by the Delegations of Costa Rica, Nicaragua, Guatemala, Liechtenstein and Greece and recommends to the Conference to adopt the Draft Resolution as given in Appendix II to this report: this Draft Resolution provides for the institution of a Working Party for the investigation of this question.

The Committee wishes to express its thanks to the Secretariat for the great help it has given them, and is particularly anxious to pay tribute to the Swiss Delegation for the magnificent work of preparing the Draft Rules of Procedure which have facilitated the work of the Committee and considerably expedited its labours.

*Appendix I. RULES OF PROCEDURE OF THE CONFERENCE. — Draft Resolution submitted by the Procedure Committee.*

*The Conference*

- 1) approves the Report of the Procedure Committee
- 2) adopts the text drawn up by the Procedure Committee as the Rules of Procedure of the Conference.

*Appendix II. RULES OF PROCEDURE OF THE CONFERENCE. — Draft Resolution presented by the Procedure Committee.*

A Working Party of 5 members shall be constituted, whose work shall be:

- 1) to study the legal problems raised by the amendment to Rule 22 of the Rules of Procedure submitted by the Delegations of Costa Rica, Nicaragua, Guatemala, Liechtenstein and Greece, which is worded as follows:

“Should the number of delegates of any one country be insufficient to permit that country participating in the work of each of the Committees, the head of the delegation concerned may arrange for the delegate of another country to take his place.”

- 2) to report at the Plenary Meeting of the Conference on the possibility of giving effect to the motion.

**Rules of Procedure of the Conference.** *Text proposed by the Procedure Committee . . . . .*

**3**

I. *Composition of Conference*

RULE ONE

*Delegates* The Conference shall be composed:

- (a) of delegates representing the countries adhering to the Geneva Convention for the relief of the wounded and sick in armies in the field, of August 22nd, 1864, revised July 6th, 1906 and July 27th, 1929; to the Convention relating to the treatment of prisoners of war, signed at Geneva on July 27th, 1929; to the Hague Convention of July 29th, 1899, for the adaptation to maritime warfare of the principles of the Geneva Convention of August 22nd, 1864, and the Hague Convention of October 18th, 1907, for the adaptation to maritime warfare of the principles of the Geneva Convention of July 6th, 1906;
- (b) of delegates representing any other countries to which, at the request of the Conference, the Swiss Federal Council has sent an invitation.

## RULE 2

The admission of governmental or inter-governmental observers to take part in the work of the Conference shall be granted by the Conference in each case as it arises. Such observers shall be entitled to attend all meetings of the Conference and its Committees. They shall have access to all assembly rooms and documents. They may be requested by the Conference or its Committees to express their opinion on any question or to take part in a discussion or be authorized to do so at their request. They shall not, however, be entitled to vote.

*Observers*

The admission of other observers to take part in the work of the Conference shall be granted by the Conference in each case as it arises. Such observers shall be entitled to attend all meetings of the Conference and its Committees. They shall have access to all assembly rooms and documents. They may be requested by the Conference or its Committees to express their opinion on any question or to take part in a discussion. They shall not, however, be entitled to vote.

## RULE 3

The Conference may invite experts not belonging to a delegation to take part in its work.

*Experts*II. *Verification of Credentials*

## RULE 4

Delegates must present their credentials to the Secretariat at the latest on the opening day of the Conference.

*Presentation of Credentials*

## RULE 5

A Credentials Committee consisting of seven members shall be elected by the Conference at its first Plenary Meeting. This Committee shall verify the validity of credentials and shall report upon them to the Conference on the following day. It may subsequently be called upon to verify credentials to which objections have been raised or which have been received tardily and shall in each case report to the Conference.

*Credentials Committee*

## RULE 6

Any delegation or delegate to whose admission objection has been raised shall attend provisionally, exercising all relevant rights until the Credentials Committee has made its report and the Conference has taken its decision thereupon.

*Objection to the Admission of a Delegation or Delegate*III. *Presidents, Vice-Presidents, Secretary-General and Rapporteurs*

## RULE 7

The Conference shall elect a President, five Vice-Presidents and one Secretary-General.

*Conference Elections*

## RULE 8

Each Committee shall elect a Chairman, one or two Vice-Chairmen and one or more Rapporteurs.

*Committee Elections*

## RULE 9

*Powers of  
President  
and Chairmen*

In addition to the powers conferred upon them by other provisions of these Rules of Procedure, the President and Chairmen shall declare the opening, the close and, where necessary, the adjournment of meetings. They shall ensure the observance of the Rules of Procedure, conduct the debates, grant the right to speak in order of request, declare the closure of debates, put questions to the vote and announce the result of the vote.

IV. *Bureau of the Conference*

## RULE 10

*Composition  
of the Bureau*

The Bureau of the Conference shall consist of the President, the Vice-Presidents and the Secretary-General of the Conference, and of the Chairmen of Committees I, II and III, the Credentials Committee, the Coordination Committee, the Drafting Committee and the Procedure Committee.

## RULE 11

*Summoning  
of the Bureau*

The Bureau shall be summoned and presided over by the President of the Conference.

## RULE 12

*Powers  
of the Bureau*

Subject to any further decision taken by the Conference, the Bureau shall draw up the agenda and determine the date and time of each Plenary Meeting of the Conference. It shall ensure the efficient working of the Conference.

V. *Secretariat of Conference*

## RULE 13

(Rule 14 of the Draft)

*Composition  
of Secretariat*

The Secretariat of the Conference shall be composed of a Secretary-General and of assistants placed at the disposal of the Conference by the Swiss Government.

## RULE 14

(Rule 15 of the Draft)

*Duties  
of Secretariat*

The Secretariat shall take charge of the service both of the Conference and the Committees. It shall receive and circulate motions, amendments and reports, draw up and circulate records, keep the records of the Conference, provide for their translation as set forth in Rule 38, and in a general way carry out all the duties with which the Conference and the Committees see fit to entrust it.

VI. *Committees.*

## RULE 15

(Rule 16 of the Draft)

*Committee I*

A Committee, known as Committee I, shall be constituted for the revision of the Geneva Convention of July 27th, 1929, for the relief of the wounded and sick in armies in the field, and further with the revision of the Hague Convention of October 18th, 1907, for the adaptation to maritime warfare of the principles of the Geneva Convention of July 6th, 1906.

## RULE 16

(Rule 17 of the Draft)

A Committee, known as Committee II, shall be constituted for the revision of the Geneva Convention of July 27th, 1929, relating to the treatment of prisoners of war.

*Committee II*

## RULE 17

(Rule 18 of the Draft)

A Committee, known as Committee III, shall be constituted for the establishment of a new Convention for the protection of civilian persons in time of war.

*Committee III*

## RULE 18

(Rule 19 of the Draft)

A Coordination Committee of twenty members shall be constituted to examine the conclusions of the Committees I, II and III, and to draw the attention of the Committees concerned to any discrepancies in their conclusions. It may make recommendations to the Committees concerned as to how these discrepancies should be removed.

*Coordination  
Committee*

## RULE 19

(Rule 20 of the Draft)

A Drafting Committee of nine members shall be constituted. The special Drafting Committees appointed by each Committee in virtue of Rule 20 shall form part of the Drafting Committee when the latter is examining the Convention on which the Drafting Committee is engaged. The Drafting Committee shall report to the Conference on the final wording of the Conventions drawn up by Committees I, II and III.

*Drafting  
Committee*

## RULE 20

(Rule 21 of the Draft)

Each Committee shall be free to set up its own Drafting Committee, sub-Committees and Working Parties.

*Drafting  
Committees,  
Sub-Committees  
and Working  
Parties*

## RULE 21

(Rule 22 of the Draft)

Each country shall be entitled to be represented by one or more of its delegates on Committees I, II and III.

*Representation  
on Committees  
I, II and III*

## RULE 22

(Rule 23 of the Draft)

The Chairmen of each Committee or sub-Committee shall have the same rights and duties with respect to the meetings of his Committee or sub-Committee as the President of the Conference with respect to the Plenary Meetings.

*Chairmen of  
Committees*

## RULE 23

(Rule 24 of the Draft)

Any member of a Committee who is prevented from attending a meeting may nominate another member of his delegation as a substitute.

*Substitutes*

## RULE 24

(Rule 25 of the Draft)

*Times of  
Committee  
Meetings*

As a general rule, no Committee meeting shall take place at the same time as a Plenary Meeting of the Conference.  
The Committees shall fix the date and time of their meetings.

VII. *Conduct of Debates*

## RULE 25

(Rule 26 of the Draft)

*Motions and  
Amendments*

The texts of all motions and amendments shall be transmitted in writing to the Secretary-General of the Conference or the Secretaries of Committees, who shall check them and instruct the Secretariat to circulate them to the delegates at least twenty-four hours prior to any discussion. The President or Chairman may, however, authorize at any time the discussion and consideration of a motion or amendment which, by its brevity, simplicity or relative unimportance, seems to justify it, even if it has not been handed in to the Secretary-General or the Secretaries of Committees or circulated to delegates in accordance with this rule.

## RULE 26

(Rule 27 of the Draft)

*Reports of  
Committees*

Reports of Committees, after having been initialled by the Chairman of the Committee concerned, shall be transmitted to the Secretariat and circulated (with the exception of those of the Credential Committee) at least twenty-four hours before the Plenary Meeting of the Conference at which they are to come up for discussion.

## RULE 27

(Rule 28 of the Draft)

*Length  
of Speeches*

The Conference in Plenary Meeting and the Committees constituted in virtue of Chapter VI of the present Rules may, on a point of order or formal motion, at any time limit the length of speeches.

## RULE 28

(Rule 29 of the Draft)

*Call to Order*

The President may call to order any speaker whose remarks are not relevant to the question under discussion and, if necessary, withdraw his right to speak.

## RULE 29

(Rule 30 of the Draft)

*Order of  
Priority*

Where a number of motions or amendments are moved on one proposal or clause, the President or Chairman shall, subject to challenge from the floor, determine their order of priority. Consequential and drafting amendments may be left to the appropriate Drafting Committees. After all amendments have been voted on, the complete text of a proposal or clause shall be voted on. At the request of any delegate a proposal, amendment or clause may be voted on by paragraphs.

RULE 30  
(Rule 31 of the Draft)

During the discussion of any question a delegate may raise a point of order. The President or Chairman shall decide the point, but if the decision is challenged two speakers may address the meeting, one against and one for the decision, and strict relevance shall be observed. The ruling shall then be put to the vote.

*Points of Order*

Any delegate may on a point of order object to the intervention of a non-delegate.

RULE 31  
(Rule 32 of the Draft)

During a discussion a delegate may move the closure or adjournment of the discussion of the matter in question. If application to speak on the motion is made, only two further speakers may address the meeting, one for and one against the motion. The motion shall then be put to the vote.

*Closure  
of Discussion*

RULE 32  
(Rule 33 of the Draft)

A motion may be withdrawn by its proposer at any time before voting upon it has commenced, provided that there is no amendment to that motion before the meeting. Any motion thus withdrawn may be reintroduced by any delegate.

*Withdrawal  
of Motions*

RULE 33  
(Rule 34 of the Draft)

When a resolution or a motion has been adopted or rejected it shall not be reconsidered unless the Conference or Committee decide otherwise by a majority of two-thirds of the delegates present.

*Reconsideration  
of Motions*

VIII. *Voting*

RULE 34  
(Rule 35 of the Draft)

Each member country shall be entitled to one vote in the Conference and in Committees I, II and III.

*Number  
of Votes*

In the Coordination, Drafting and Credentials Committees each participating member shall have one vote.

RULE 35  
(Rule 36 of the Draft)

All decisions of the Conference and Committees shall be taken by a simple majority (except as provided under Rule 33) of members present and voting. Abstention shall not count as a vote for this purpose.

*Majorities*

A vote which results in a draw in a committee shall be considered as rejection. Resolutions rejected by a tie in Plenary Session shall be open for reconsideration at the request of a member and may be submitted again to the vote after a delay of twenty-four hours.

RULE 36  
(Rule 37 of the Draft)

Delegates shall normally vote by show of hands unless the Conference or Committees decide on a roll-call of delegations or on a secret ballot.

*Method  
of Voting*

## RULE 37

(Rule 38 of the Draft)

*Record  
of Names  
in Roll-Call*

The names of all delegations or delegates participating in a roll-call shall be inserted in a record of the meeting.

## IX. Languages

## RULE 38

(Rule 39 of the Draft)

*Languages,  
Translations,  
Interpreters  
and Documents*

The working languages of the Conference shall be French and English. Speeches delivered in one of these two languages shall be interpreted into the other by an interpreter of the Secretariat. Where, however, a speech is made in another language the delegation concerned shall itself provide for the interpretation of its speeches into one of the working languages.

All documents shall be issued in French and English. All texts transmitted to the Secretariat must be drafted in one of these two languages.

## X. Records

## RULE 39

(Rule 40 of the Draft)

*Verbatim  
and Summary  
Records*

The Secretariat shall prepare:

- (1) Verbatim records of the Plenary Meetings of the Conference;
- (2) Summarized records of the meetings of Committees.

These records shall be circulated as soon as possible to all delegates. Delegates shall, within forty-eight hours, communicate in writing to the Secretary-General or the Secretary of the Committee concerned any corrections they wish to have made. After that time the text of the record shall be held to be final.

## RULE 40

(Rule 41 of the Draft)

*Final Record  
of the  
Conference*

After the close of the Conference the Swiss Government shall publish the Final Record of its proceedings in French and English.

## XI. Press and Public

## RULE 41

(Rule 42 of the Draft)

*Press*

The representatives of the press shall have access to the places reserved for them on presentation of the cards issued by the Secretariat on the instructions of the Secretary General.

## RULE 42

(Rule 43 of the Draft)

*Public*

The public shall have access to the places reserved for them on presentation of the cards issued by the Secretariat on the instructions of the Secretary-General.

## RULE 43

(Rule 44 of the Draft)

The Plenary Meetings and meetings of Committees shall be open to the public unless the Conference or the Committees decide otherwise. *Secret Sessions*

XII. *Amendments to the Rules of Procedure*

## RULE 44

(Rule 45 of the Draft)

Any Rule of the present Rules of Procedure may be amended or added to at a Plenary Meeting of the Conference. *Amendments to the Rules of Procedure*

**Report of Working Party for the Examination of the Amendment to Article 21 of the Rules of Procedure** *submitted by the Delegations of Costa Rica, Greece, Guatemala, Liechtenstein and Nicaragua* . . . . .

No.

4

The Working Party held three meetings: on April 29th, at 6 p.m., May 5th, at 5.30 p.m. and May 10th, at 5 p.m. Were present: Professor Frede CASTBERG (Norway), Professor Erik CASTRÉN (Finland), Mr. Platon MOROSOW (U.S.S.R.) and Mr. Raymund T. YING-LING (U.S.A.). Professor Frede CASTBERG was unanimously elected Chairman.

## I

In accordance with its mandate, the Working Party considered the legal problems raised by the amendment. It was noted that there are several possibilities for a State to be represented at an International Conference, in addition to the usual method consisting of being represented by its own delegates.

- (a) A State can be represented by another State, either permanently (for instance, in virtue of a treaty concluded between the two countries), or from time to time; in the latter case the necessary powers must be drawn up in the name of the Government of the other State.
- (b) A State can also be represented by the delegation representing another State, in which case the delegation in question must be supplied with powers granted by the two States separately. This does not imply that the common representatives of the two States thereby become collective agents; they remain individual agents, designated at the same time by several subjects of international law, who act sometimes for the one and sometimes for another of their mandatories.

The Working Party noted that the forms of representation described under (a) and (b) above correspond to a well established practice, recognized by legal doctrine. It therefore concluded that each State participating in this Conference was at liberty to be represented by either of these two methods, without any special provision to that effect being embodied in the Rules of Procedure.

- (c) A quite different question arises as to whether a delegate can transfer his powers to another person and, if so, under what conditions this can be done.

It should be recognized that this problem is governed by the maxim "delegatus non posset delegare", but that the rule does not apply if the powers granted to a delegate expressly provide for the possibility of transfer.

In considering the doctrine, the Working Party came to the conclusion that the possibility of such transfer can be accepted, provided however, that the delegate's powers contain express authority governing this point.

The Working Party, however, thought it necessary to add that the Conference was perfectly at liberty not to accept the principle that one delegation can be represented by another, even though the powers of the latter contain an authorization thereof. The Conference itself can regulate the methods of the representation of the participating States.

There are several more or less famous cases of the transfer of powers recorded in diplomatic history; but the Working Party is only aware of very few recent examples. For instance, a provision figuring in the General Rules annexed to the Atlantic City Convention (act establishing the International Telecommunications Union) provides that:

“A duly accredited delegation may give a mandate to another duly accredited delegation to exercise its vote at one or more sessions at which it is unable to be present. In no case may one delegation exercise more than one proxy vote.”

The Working Party considered that this provision was not at variance with the opinion on which it had based itself above, according to which it is necessary to insist upon express authorization being granted for recognizing the validity of a transfer of powers. The States, Members of the International Telecommunications Union have actually accepted this Article by ratifying the Convention; and have therefore accepted the principle that a transfer of powers was valid as regards themselves. The Article in question simply replaces an express declaration to that effect in the credentials.

The United States Delegate while agreeing with the foregoing pointed out that if proxy voting were confined to Committees I, II and III, which are only working groups without power of final decision, no question of transfer of full powers is involved as the delegate giving the mandate to another delegate to vote for him in these Committees retains his full powers to ratify or reject in the Plenary Meetings what has been done in the working Committees. The proxy is only a convenient device to permit the delegate with full powers to express tentative conclusions in more than one place at the same time since it is impossible for him to be physically present in more than one place at the same time. In these circumstances the United States Delegate saw no legal necessity for requiring that a delegate's Government must specifically authorize him to act in the manner indicated.

## II

The Working Party then proceeded to consider in what circumstances a delegation to this Conference might find it necessary to be represented by another. It came to the conclusion that there was clearly no such necessity as regards Plenary Meetings or meetings of the Joint Committee, since even delegates representing their country alone are in a position to attend such meetings.

As regards to meetings of Committees, the decisions taken there are not final since all the Articles of Draft Conventions can only be adopted finally at a Plenary Meeting which makes it possible for small delegations to express their views on each question and to submit amendments if they so desire. It is obvious, however, that the discussions mainly take place in the Committees themselves, where votes of considerable importance are taken. Since Committees usually meet simultaneously most of the time, it may be expedient to provide for the possibility of delegating powers.

This procedure, however, would raise certain practical issues, and it would previously appear necessary, to regulate in detail the conditions under which powers can be delegated. It is necessary, in the first place, that the Credentials Committee should examine whether the authority by whom the powers have been granted has expressly authorized the possibility of a transfer of the latter. The United States Delegate, however, did not share this opinion. Secondly, it seems advisable to admit that the mandatory is granted a discretionary power; this in order to prevent disputes and the possibility that a vote should be declared invalid. It would also seem necessary that the Chairman of the Committee concerned should receive written notification for each meeting of the transfer of powers. Lastly, no delegation should be entitled to vote more than one proxy at any one meeting.

## III

Though recognizing the legal principles set forth in Figures I and II, the Working Party came to no agreement as to the conclusions to be drawn in regard to the present Conference.

The Delegate of the Soviet Union was of the opinion that the transmission of the powers of one delegation to another is contrary to diplomatic practice and could not therefore be admitted by the Conference. He considered that the example of the International Telecommunications Union, quoted under Figure I, did not constitute a true precedent as it applied to Conferences on technical subjects and not to diplomatic Conferences. He was also of the opinion that the transmitting of powers would not lead to more active co-operation in the work of the Committees by the delegations of small States; the essential point was the participation in the debates and the emergence of a common purpose in all organs of the Conference, and not the mere casting of votes. The opinion of the Representative of the Soviet Union is given in the appendix to this report.

The United States Delegate was of the opinion that the Conference should allow the transmission of powers within the limits set forth under Figure II, without the necessity of special authority from the Government which had granted such powers.

In the opinion of the Finish Delegate, the rules of international law allow the Conference to admit voting by proxy at the Committee meetings, on condition that special authority was given to this effect by the Government of the delegation which thus transmits its powers.

The Norwegian Delegate was in favour of the transmission of powers, as provided under Figure II, but he also considered that special authority from the Government concerned was necessary.

A vote on the question of whether the Working Party should submit one or several texts of an amendment to the Rules of Procedure resulted in a tie. In view of this result, and of the differences of opinion regarding the possibility of giving effect to the proposal submitted by the Delegations of Costa Rica, Greece, Guatemala, Liechtenstein and Nicaragua, the Working Party limited the present report to a legal review of the questions raised by this proposal.

*Appendix. Opinion expressed by the Delegate of the Union of Soviet Socialist Republics:*

(1) It is an established fact that in Diplomatic Conference usage up to the present, a State whose representative was not taking part in the Conference has only delegated the representation of its interests to another State. The proposal to grant the right to certain delegates to designate delegates of other States as their representatives at meetings of Committees or sub-Committees of the present Conference has no precedent.

This situation is not only at variance with time-honored diplomatic usage, but furthermore hampers the normal work of the Diplomatic Conference.

(2) The only instance quoted in support of this proposal is the usage of Telecommunication Conferences. These Conferences, however, cover purely technical questions. Even the substitution of representatives of various telephone, telegraph and wireless companies for government delegates has sometimes been permitted in these Conferences.

Obviously a precedent of this kind cannot be used to support the introduction of a similar for Diplomatic Conference work.

(3) It is doubtless extremely important that delegations of small countries should be sure of their participation in the work of the Conference. The methods of solving the problem, suggested by the Delegations of Costa Rica, Greece, Guatemala, Liechtenstein and Nicaragua, have not, however, anything in common with the real solution. What is needed is a working method by which important questions should not be under discussion simultaneously in two or several Committees, so that small delegations could always take part in debates on the most important questions examined by the Conference.

(4) The amendment of Rule 2 of the Rules of Procedure, as proposed by the above mentioned Delegations cannot result in a more active participation of delegates of small countries in the work of the Conference, for even should the amendment be passed, the

representatives of small countries could not take part in debates in all Conference Committees, just as they could not if the amendment to the Rules of Procedure were rejected.

It is proposed that small delegations should be entitled to delegate their vote, as need arises, to the representatives of other States when a matter comes up for decision in Conference Committees. Generally, however, a vote is taken as a result of the debates which have taken place during the meeting. The general discussion of various questions in the Conference Committees is the most essential and valuable aspect of the collaboration of the States attending the Conference. It is above all at this stage, when preliminary decisions are arrived at, that it is impossible to draw an artificial distinction between delegate's right to vote and their other functions, namely and above all their share in the discussion and their contribution to the emergence of a common goal for the Conference. Should the above proposal be accepted, the inevitable result would be a certain deformation of this collective will.

The outcome would be that one or the other delegation, without having heard the arguments advanced by their colleagues, would vote in favor of decisions they would not have supported had they taken part in the debate.

It should be borne in mind that votes cast during the preliminary stages only of the first text drafted in meetings of the Conference Committees are not final. Final decisions are the work of the Plenary Meetings of the Conference. The delegate of any small country is entitled to table his proposals and amendments in the meetings of the Committees he considers most important, as also at the Plenary Meetings.

In the light of these arguments the Delegate of the Union of Soviet Socialist Republics is opposed to the proposal to amend Rule 21 of the Rules of Procedure.

**Rules of Procedure of the Conference. — Rule 21. — Amendment proposed by the Delegations of the United States of America and of Norway. . . . .**

5

Add to Rule 21 the following paragraph:

A duly accredited delegation of less than three members may give a mandate to another duly accredited delegation to exercise its vote at any Committee meeting, the Joint Committee excepted, at which it is unable to be present, provided that it has been expressly authorized so to do by its Government\*. In no case may a delegation use more than one such mandate at any one meeting. Written notification of the issuance of such a mandate shall be handed to the Chairman of the Committee in question in each separate instance.

**To all Delegations at the Diplomatic Conference of Geneva (Document No. 13, 23.VI.1949)**

6

At its Meeting on 21 June, the Bureau of the Conference once again examined the progress of the work of the Conference. With a view to accelerating the latter, the Bureau drew up the following recommendations for the attention of the different delegations. These recommendations were approved as a whole by the Heads of delegations at their Meeting of 23 June.

- (1) The reports submitted by the Chairman of Committees show that Committee I is on the point of terminating its work. On the other hand, Committees II and III still have a great deal of work before them. In view of this, the Bureau was of the opinion that it was necessary to fix a date for the termination of the work of Committees II and III; 9 July was agreed upon. The Bureau strongly recommends to the Committee that they should organize their time table so that they may bring their work to an end within this time-limit. They may, if they so wish, in case of a necessity, have meetings at night and on Saturday mornings. The Secretariat has taken the necessary measures to enable these meetings to take place.

\* The Delegation of the United States of America does not consider the proviso legally necessary nor administratively advisable.

- (2) It is essential that the debates of the Plenary Meeting should not be unduly prolonged. For a great number of Articles, all discussion is now exhausted, all the arguments have been put forward and the opinion of the delegates is known. A reopening of the same debates must be avoided. For this reason, the Bureau earnestly recommends that the delegations should limit the number of amendments to be submitted to the Plenary Meeting. Delegations are requested to submit to the Plenary Meetings only those amendments which have a fundamental value, and, in the case of the others, to consider the discussion closed after the decision has been reached in Committee. The Bureau was also of the opinion that the time-limit of 24 hours, provided for in Article 25 of the Rules and Regulations for the submission of amendments, was too short, particularly where Plenary Meetings were concerned. It is necessary to extend this time-limit, and a proposal in this sense will be submitted to the next Plenary Meeting.
- (3) The Chairman of Committee III decided, some time ago, to limit speeches to 5 minutes and to allow each delegation 10 minutes for the discussion of each Article, thereby making use of the powers given him by Rule 27 of the Rules of Procedure. Committee II is also perfectly free, should it judge necessary, to adopt a similar measure in order to bring its work to an end by 9 July. The Committee has not yet made a decision for limiting the length of speeches at the Plenary Meeting. It is of the opinion, however, that in principle the measure taken by Committee III should be adopted, as far as possible, at the Plenary Meeting. It is also considering a proposal to limit the number of speeches in favour of or against a certain text, so as to avoid the repetitions which unnecessarily slow down the work.
- (4) The Chairmen of Committees have lately noticed the absence of several delegations. The fact that several delegations are not on the Committees to vote on Articles, when vote is called for, may lead to results which do not accurately reflect the opinion of the majority. The Bureau, therefore, earnestly appeals to all delegations to be present, whenever possible, at the Plenary Meetings of the Committees.

**Suggested Procedure for Plenary Meetings of the Conference.** *Proposals submitted by the Bureau of the Conference* . . . . .

7

At its Meeting of 13 July, the Bureau of the Conference decided to recommend the adoption of the following rules for the discussion of the Conventions at the Plenary Meetings:

(a) The Plenary Meeting will consider the four Conventions in succession, and in the following order:

- (1) Wounded and Sick Convention;
- (2) Maritime Convention;
- (3) Prisoners of War Convention;
- (4) the Convention for the Protection of Civilian Persons.

The Articles common to the four Conventions will be considered together with the Wounded and Sick Convention. Draft Resolutions will only be put for discussion after the adoption of the Conventions.

(b) The Secretariat will circulate the following documents for reference at Plenary Meetings:

- (1) the text of each Convention as established by the debates in the competent Committee;
- (2) the Reports of Committees I, II and III and of the Joint Committee;
- (3) the Reports of the Drafting Committee and the Coordination Committee on each Convention.

In order to distinguish them from previous documents, they will be printed on green paper.

(c) In accordance with the suggestion made at the Meeting of Heads of delegations on 23 June, all amendments submitted to the Plenary Meeting must be handed in at the Secretariat not later than 48 hours before the Convention to which they relate comes up for discussion. These amendments will also be printed on green paper.

(d) The Rapporteurs of the principal Committees of the Drafting Committee and the Coordination Committee will not read their Reports, and will only speak when called upon by delegates to give any necessary explanations.

The President will put the Conventions for discussion Article by Article. If no delegate requests to speak, the Article will be regarded as adopted. A vote on the text in its entirety will be taken two or three days after the end of the discussion of each Convention. After the vote has been taken, delegates wishing to do so may make a short statement explaining their vote.

\* \* \*

The Secretariat wishes to draw the special attention of delegates to point (c). If work in the Committees permits, the Plenary Meetings will begin on Wednesday afternoon, 20 July. Should this be the case, the amendments relative to the Wounded and Sick Convention should be deposited at the latest on 18 July at noon.

**Article 2** /2 /2 /2. *Amendments proposed by Canada* . . . . . **8**

(1) Add the following sentence to the third paragraph:

“The Convention shall also apply to a Power not a Party to the present Convention so long as this Power complies therewith.”

(2) Delete the fourth paragraph.

**Article 6** /7 /7 /7

(1) After the word “applied” in the first paragraph add the words “by belligerents”.

(2) Replace the words “under the supervision” from the first sentence of paragraph one by “under the scrutiny”.

(3) Delete the last sentence of paragraph one.

**Article 117 Prisoners of War and 128 Civilians.**

(1) Between the words “military and” and the word “civil” insert the words “if possible”.

(2) Delete the words “if possible” before the words “to the population”.

**Article 39** /43 /119<sup>1</sup> /130<sup>2</sup>.

Delete the words “Within a maximum period of two years” at the beginning of paragraph one.

**Article 40** /44 /119<sup>2</sup> /130<sup>2</sup>.

Delete the paragraph and substitute:

“Each Contracting Party shall be under the obligation to search for persons alleged to be guilty of breaches of the present Convention whatever their nationality, and in conformity with its own laws, to indict such persons before its own tribunals or, if it prefers, to hand them over for trial to another Contracting Party.”

**Article 2/2/2/2, third paragraph. *Amdt. Belgium. 5.V.49.* . . . . . 9**

Article 2, paragraph 3 of the Draft Civilians Conventions states: "Should one of the Powers in conflict not be Party to the present Convention, the Powers who are Party thereto shall, nevertheless, be bound by it in their mutual relations".

Nothing is stated regarding the position of a Power which is Party to the Convention as opposed to a Power not Party to the Convention. It must be inferred from this silence that no obligation exists between the Parties to the conflict. The intentions of the High Contracting Parties would not be entirely met if the manner in which certain obligations might arise between Parties concerned was not provided for.

It is therefore suggested that the following text be inserted after Article 2, paragraph 3:

"They shall be under obligation to the other Parties from such time as the latter accept to be bound by the principles of the present Convention."

A variation which has the merit of being more complete would entail the substitution for Article 2, paragraph 3 of the following text:

"Should one of the Powers in conflict not be Party to the present Convention, the Powers which are Party to the latter need only be bound by it insofar as their mutual relations are concerned. However, the Powers which are Party to the Convention shall invite the Power which is not Party to it to accept the terms of the said Convention; as from the latter Power's acceptance of the Convention, all Powers concerned shall be bound by it."

**Article 2/2/2/2, third paragraph. *Proposal I.R.C.C. "Remarks and proposals" (p. 9)* . . . . . 10**

Insert in the third paragraph of the Stockholm text the two following clauses:

"In the event of an international conflict between one of the High Contracting Parties and a Power which is not bound by the present Convention, the Contracting Party shall apply the provisions thereof. This obligation shall stand unless, after a reasonable lapse of time, the Power not bound by the present Convention states its refusal to apply it, or in fact fails to apply it."

**Article 2/2/2/2, fourth paragraph \* *Amdt. Australia. 4.V.1949* . . . . . 11**

"In the case of civil war in any part of the home or colonial territory of a Contracting Party the present Convention (or if this goes too far, "The Principles of the present Convention") shall be applied between the Parties to the conflict, provided:

- (1) that the *de jure* Government has recognized the insurgents as belligerents; or
- (2) that the *de jure* Government has claimed for itself the rights of a belligerent; or
- (3) that the *de jure* Government has accorded the insurgents recognition as belligerents for the purposes only of the present Convention; or
- (4) that the dispute has been admitted to the Agenda of the Security Council of the General Assembly of the United Nations as being a threat to international peace, a breach of the peace, or an act of aggression."

**Article 2/2/2/2, fourth paragraph. *Amdt. France. 26.IV.1949* . . . . . 12**

"In all cases of armed conflict not of an international character which may occur on the territory of one or more of the High Contracting Parties, each of the Parties to the conflict shall be bound to implement the provisions of the present Convention, if the adverse Party possesses an organized military force, an authority responsible for its acts acting within a defined territory and having the means of observing and enforcing the Convention."

\* became later on Article 2A.

<b>Article 2/2/2</b> , fourth paragraph. <i>Amdt. France</i> . 8.VI.1949 . . . . .	No. <b>13</b>
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“In case of armed conflict not of an international character occurring in the territory of one of the High Contracting Parties, each Party to the conflict shall be bound to apply the provision of the Preamble of the Convention relative to the Protection of Civilian Persons in Time of War.

The Parties to the conflict should further endeavour to bring into force, by means of special agreements, all or part of the other provisions of the Convention relative to the protection of the Civilians, as well as those of the Conventions relative to the Wounded and Sick, to the Prisoners of War and to Maritime Warfare.

The application of the preceding provisions shall not affect the legal status of the Parties to the conflict.”

<b>Article 2/2/2</b> . <i>Text adopted by the Special Committee of the Joint Committee</i> , on May 25 and 27, 1949 . . . . .	<b>14</b>
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*Application of the Convention.*

In addition to the stipulations which shall be implemented in peace time, the present Convention shall apply to all cases of declared war or of any other armed conflict which may arise between two or more of the High Contracting Parties, even if the state of war is not recognized by one of them.

The Convention shall also apply to all cases of partial or total occupation of the territory of a High Contracting Party even if the said occupation meets with no armed resistance.

If one of the Powers in conflict is not Party to the present Convention, the Powers who are Party thereto shall notwithstanding be bound by it in their mutual relations. They are furthermore bound by the Convention in relation to the said Power, if the latter accepts and applies the provisions thereof.

<b>Article 2A/2A/2A2/A</b> . <i>Amdt. Plen. Union of Soviet Socialist Republics</i> , 2I. VII. 1949 . . . . .	<b>15</b>
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It is proposed that Article 2A should read as follows:

A. *Wounded and Sick and Maritime Conventions.*

“In all cases of armed conflict not of an international character which may occur in the territory of one of the signatories of the present Convention, each of the Parties to the conflict shall be bound to implement the provisions of the present Convention which guarantee:

humane treatment of the wounded and sick;

prohibition of any discriminatory treatment of the wounded and sick on the grounds of race, colour, religion, sex, birth or wealth.”

B. *Prisoners of War Convention.*

“In all cases of armed conflict not of an international character which may occur in the territory of one of the signatories of the present Convention, each of the Parties to the conflict shall be bound to implement the provisions of the present Convention which guarantee:

humane treatment of prisoners of war;

the application of all established rules for the treatment of prisoners of war;

prohibition of any discriminatory treatment of prisoners of war on the grounds of race, colour, religion, sex, birth or financial position.”

C. *Civilians Convention.*

“In all cases of armed conflict not of an international character which may occur in the territory of one of the signatories of the present Convention, each of the Parties to

the conflict shall be bound to implement the provisions of the present Convention which guarantee:

humane treatment of the civilian population;

prohibition within the territory occupied by the armed forces of one or the other Party of reprisals against the civilian population, the taking of hostages, destruction or damage to property when this is not rendered necessary by military considerations;

prohibition of any discriminatory treatment of the civilian population on the grounds of race, colour, religion, sex, birth or financial position."

**Article 4/5/5/5.** *Text adopted by the Special Committee of the Joint Committee on 14.VI.1949. Special agreements.* **16**

In addition to the agreements expressly provided for in \* Articles 12, 18 and 24, the Contracting Parties may conclude other special arrangements for all matters \*\*, concerning which they may deem it suitable to make separate provision. No special agreement shall adversely affect the situation of \*\*\* the wounded and sick, or of the members of medical personnel or of chaplains, as defined by the present Convention, nor restrict the rights which it confers upon them.

Wounded and sick \*\*\*\*, as also members of medical personnel and chaplains shall benefit by these agreements as long as the Convention is applicable to them, subject to express stipulations to the contrary in the said or subsequent agreements, or again subject to more favourable measures taken on their behalf by one or the other of the Parties to the conflict.

**Article 5/6/6/6.** *Proposal I.R.C.C. "Remarks and proposals" (p. 39)* . . . . . **17**

"The High Contracting Parties shall in no circumstances deprive prisoners of war, either wholly or in part, of the rights conferred on them by the present Convention and, where applicable, by the special agreements mentioned in the foregoing Article, even if the prisoner makes an explicit request to that effect."

**Article 5/6/6/6.** *Text submitted to the XVIIth Red Cross Conference at Stockholm.* . . . . . **18**

"Prisoners of war may in no circumstances be induced by constraint or by any other means of coercion, to abandon partially or wholly the rights conferred on them by the present Convention and, should the case arise, by the special agreements foreseen in the preceding Article."

**Article 6/7/7/7.** first paragraph. *Amdt. Canada.* See Annex No. 8.

**Article 6/7/7/7.** *Text adopted by the Special Committee of the Joint Committee on 13.VI.1949* . . . **19**

The present Convention shall be applied with the co-operation and under the scrutiny of the Protecting Powers whose duty it is to safeguard the interests of the Parties to the conflict. To this effect, the Protecting Powers may appoint, apart from their diplomatic or consular staff, delegates from amongst their own nationals, or the nationals of other

\* in the Maritime Warfare Convention : "Articles 23, 26, 33 and 35, the Con..."

\* in the Prisoners of War Convention : "Articles 9, 26, 51, 56, 57, 61, 62, 65, 100, 101, 102, 108 and 109, the Con..."

\* in the Civilians Convention: "Articles 9, 12, 33, 52, 84, 97, 98, 121, 122, the Con..."

\*\* in the Prisoners of War Convention add: "relating to prisoners of war"

\*\*\* in the Prisoners of War Convention: "prisoners of war, as defined..."

\*\*\* in the Civilians Convention: "protected persons, as defined..."

\*\*\*\* in the Civilian Convention: "Protected persons shall..."

\*\*\*\* in the Maritime Convention: "Wounded, sick and shipwrecked as also..."

\*\*\*\* in the Prisoners of War Convention: "Prisoners of war shall..."

neutral Powers. The said delegates shall be subject to the approval of the Power with which they are to carry out their duties.

The Parties to the conflict shall facilitate to the greatest extent possible the task of the representatives or delegates of the Protecting Powers.

The representatives or delegates of the Protection Power shall not in any case exceed their mission under the present Convention. They shall, in particular, take account of the imperative necessities of security of the State wherein they carry out their duties. Their activities shall only be restricted as an exceptional and temporary measure when this is rendered necessary by imperative military necessities.

**Article 8** /9/9/9. *Extract from the Memorandum submitted by the Government of the United Kingdom* (Document No. 6, page 12) . . . . .

20

Proposed Article to replace Article 9 Prisoners of War Convention (and corresponding Articles in other Conventions) dealing with substitute for Protecting Power.

1. In circumstances in where there is no Government representing the prisoners of war concerned in a position to arrange for the protection of their interests by a neutral Power, the Detaining Power shall, subject to the provisions of this Article, accept the good offices of any neutral or independent organization which is willing to undertake without charge to the Detaining Power, the functions normally performed by a Protecting Power.

2. The Detaining Power may require such neutral or independent organization to furnish sufficient assurances that it is in a position to undertake the functions normally performed by a Protecting Power and that it will discharge such functions impartially. The Detaining Power may also object to any of the agents or delegates of the organization concerned.

3. Any neutral or independent organization approved for these purposes by the Detaining Power should at all times act with a sense of responsibility towards the belligerent to which the prisoners of war concerned owe allegiance.

**Article 8** /9/9/9. *Amdt. France. 31.V.1949* . . . . .

21

A. *Add Article 7A*, to be worded as follows:

In the absence of Protecting Powers, the present Convention shall be applied with the co-operation and under the supervision of a High International Committee, to be appointed within six months from the date of signature of the said Convention, on the following terms:

The Committee shall comprise thirty members.

The said members shall be selected from amongst persons of high standing, without distinction of nationality, known for their moral authority, their spiritual and intellectual independence and the services they have rendered to humanity—

In particular, they may be selected from amongst persons distinguished in the political, religious, scientific and legal domains, and amongst winners of the Nobel Peace Price —

Lists of candidates, comprising double the number of members to be appointed by each Government, shall be presented by each of the States signatory to the present Convention —

Further, the International Court of Arbitration at the Hague and the International Red Cross Standing Committee may submit proposals to the same end.

The members of the Committee shall be elected by an Assembly composed of delegates of the Governments signatory to the present Convention, meeting in a special conference consisting of one delegate for each Government. Each member shall be elected for a period of three years and shall be eligible for re-election on the expiry of that period.

The members of the Committee shall take an oath in the presence of the Assembly to devote themselves entirely, in the case of an armed conflict, to their humanitarian duties, and to do all that lies in their power to supervise the application of and ensure respect for the present Convention.

The said High International Committee for the Protection of Humanity shall enjoy diplomatic immunity in all countries signatory to the present Convention, including those who are Parties to the conflict.

The same shall be the case for each of its members in the exercise of their humanitarian duties.

Within two months following its appointment, the first Committee shall draw up its statutes, elect its bureau and appoint the place of its meetings.

*B. Draft Article 9* – as follows:

*First paragraph.* — “The High Contracting Parties shall be able at any time to apply to the High International Committee provided for in Article 7A, or agree to entrust to a body which offers all guarantees of impartiality and efficacy, the duties imposed upon the Protecting Powers by the present Convention.”

*Second paragraph.* — “by requesting either The High International Committee or a neutral State” (the text to continue as it stands).

*Third paragraph.* — “Whenever in the present Convention mention is made of a Protecting Power, such mention shall also designate the High International Committee and substitute bodies in the sense of the present Article.”

**Article 8/9/9/9, third paragraph. *Amdt. France. 28.IV.1949.* . . . . . 22**

“No derogation by special agreement may be made to the preceding provisions when one of the Powers concerned with the protection of its prisoners is deprived totally or partially of its sovereignty, in particular when the territory of the said Power is wholly or partially occupied by the troops of the Detaining Power or of the Allies of the latter.”

**Article 8/9/9/9. *Amdt. United Kingdom. 3I.V.1949.* . . . . . 23**

*Wounded and Sick and Maritime:*

Replace the first and second paragraphs by the following ones:

“When there is no government representing personnel protected by the present Convention in a position to arrange for the protection of their interests by a neutral Power, the Power in whose hands they are shall, subject to the provisions of this Article, accept the good offices of any neutral or independent organization which is willing to undertake, without charge to the Power concerned, the functions normally performed by a Protecting Power.

The Power concerned may require such neutral or independent organization to furnish sufficient assurances that it is in a position to undertake the functions normally performed by a Protecting Power, and that it will discharge such functions impartially. The Power concerned may also object to any of the agents or delegates of the organization concerned.

Any neutral or independent organization approved for these purposes by the Power concerned shall at all times act with a sense of responsibility towards the belligerent to which personnel protected by the present Convention owe allegiance.”

*Prisoners of War:*

Delete the first, second and third paragraphs and substitute for the first and second paragraphs the following ones:

“When there is no government representing the prisoners of war concerned in a position to arrange for the protection of their interests by a neutral Power, the Detaining Power shall, subject to the provisions of this Article, accept the good offices of any neutral or independent organization which is willing to undertake, without charge to the Detaining Power, the functions normally performed by a Protecting Power.

The Detaining Power may require such neutral or independent organization to furnish sufficient assurances that it is in a position to undertake the functions normally performed by a Protecting Power and that it will discharge such functions impartially. The Detaining Power may also object to any of the agents or delegates of the organization concerned.

Any neutral or independent organization approved for these purposes by the Detaining Power shall at all times act with a sense of responsibility towards the belligerent to which the prisoners concerned owe allegiance."

*Civilians:*

Delete the first and second paragraphs and substitute the following ones:

"When there is no government representing the protected persons concerned in a position to arrange for the protection of their interests by a neutral Power, the Power under whose control they are shall, subject to the provisions of this Article, accept the good offices of any neutral or independent organization which is willing to undertake, without charge to the Power concerned, the functions normally performed by a Protecting Power.

The Power concerned may require such neutral or independent organization to furnish sufficient assurances that it is in a position to undertake the functions normally performed by a Protecting Power, and that it will discharge such functions impartially. The Power concerned may also object to any of the agents or delegates of the organization concerned.

Any neutral or independent organization approved for these purposes by the Power concerned shall at all times act with a sense of responsibility towards the country to which the protected persons belong."

**Article 8** /9/9/9. *Aide-memoire, Director-General of the International Refugee Organization . . . .* **24**

1. By virtue of Article 3 of the Draft Convention those persons are protected who at a given moment and in whatever manner, find themselves in the case of a conflict or occupation, in the hands of a Power of which they are not nationals.

Persons within the mandate of IRO, being aliens in the countries in which they find themselves, belong to this category.

Article 7 envisages to co-operation of the Protecting Powers responsible for safeguarding the interests of the Parties to the Conference.

Article 8 refers to the humanitarian activity of the International Committee of the Red Cross.

The official international organizations entrusted with the protection of refugees which preceded the International Refugee Organization, namely the High Commissioner of the League of Nations and the Intergovernmental Committee of Refugees established a close and intimate collaboration with the International Committee of the Red Cross during the last war. This collaboration was all the more intimate in view of the fact that these organizations were by their terms of reference themselves entrusted with humanitarian activities in respect of certain categories of refugees who were stateless in law or in fact.

The International Refugee Organization is by the terms of Article 2 of its Constitution entrusted with the legal and political protection of persons within its mandate. It is at the same time entrusted with other important humanitarian functions, namely care and maintenance, repatriation and re-establishment.

In view of the fact that many governments are members of IRO and collaborate with this organization, it would seem opportune to extend the provisions of Article 8, to enable governments to avail themselves of its services in case of necessity.

The addition in Article 8 of a reference to "other international humanitarian organizations of an impartial character" would enable governments to cover this point.

2. Articles 7 and 8 are closely connected with Article 9 which deals with a substitute for the Protecting Powers.

In fact Article 9 enables the Contracting Parties to come to an agreement to entrust to a body which offers all guarantees of impartiality and efficacy, the duties imposed upon the

Protecting Powers by the Draft Convention. In this manner aliens who are nationals of a definite country will be protected by a Protecting Power, or by an organization acting as a substitute for a Protecting Power. This is in harmony with a regular practice which has been observed in time of war by the Parties to the conflict.

The last paragraph of Article 9 has very wisely anticipated the case of persons who should be protected under Article 3, but who do not or no longer profit by the activities of a Protecting Power or an organization acting as a substitute for a Protecting Power.

This case will certainly arise in respect of persons who are now within the mandate of IRO; for a refugee is by the terms of the Constitution of the International Refugee Organization (Annex I, Part 1, Section A) a person "who has left, or is outside of, his country of nationality or of former habitual residence..."

These persons do not enjoy the protection of the government of their country of origin and therefore do not profit by the activities of a Protecting Power which represents the interests of the nationals of a country Party to the conflict.

This category of persons are the concern of the International Refugee Organization which is responsible for their protection in the international field. The mandate of this organization does not terminate in time of war. There is therefore in existence an international organization responsible for safeguarding the interests of refugees, an organization with a humanitarian purpose which by virtue of its international and official character can offer all guarantees of impartiality. For this reason would it not seem appropriate to reconsider, in the eventuality of a conflict, to which organization the defence of the interests of the above-mentioned category of persons should be entrusted?

It is true that by the terms of its Constitution, IRO has no permanent character and is due to disappear in the near future. However, it is probable that the interested governments will wish to continue the work of international assistance in a modified form and to entrust the function of protection to a new international organization of a more limited character (cf. recommendation of the Secretary-General of the United Nations submitted to the Economic and Social Council, Document E/1112).

In the light of these considerations the observations made above concerning the protection of refugees would seem to remain valid. It is therefore suggested that in Article 9 after the words "such as the International Committee of the Red Cross" should be added "and the International Refugee Organization or the organization to which the protection of certain categories of refugees will be entrusted thereafter."

**Article 8/9/9.** *Text adopted by the Special Committee of the Joint Committee on 16.VI.1949*

25

*Substitutes for Protecting Powers.*

"The Contracting Parties may at any time agree to entrust to an organization which offers all guarantees of impartiality and efficacy the duties incumbent on the Protecting Powers by virtue of the present Convention.

When wounded and sick or medical personnel and chaplains\* do not benefit, or cease to benefit, no matter for what reason, by the activities of a Protecting Power or of an organization provided for in the first paragraph above, the Detaining Power shall request a neutral State, or such an organization, to undertake the functions performed under the present Convention by a Protecting Power designated by the Parties to a conflict.

If protection cannot be arranged accordingly the Detaining Power shall request or shall accept, subject to the provisions of this Article, the offer of the services of a humanitarian organization, such as the International Committee of the Red Cross, to assume the humanitarian functions performed by Protecting Powers under the present Convention.

Any neutral Power or any organization invited by the Power concerned or offering itself for these purposes shall be required to act with a sense of responsibility towards the belligerent on which persons protected by the present Convention depend and shall be required

\* for the Maritime Convention: "When wounded, sick and shipwrecked, medical personnel and chaplains do not..."

for the Prisoners of War Convention: "When prisoners of war do not..."

for the Civilians Convention: "When persons protected by the present Convention do not..."

to furnish sufficient assurances that it is in a position to undertake the appropriate functions and to discharge them impartially.

No derogation from the preceding provisions shall be made by special agreements between Powers one of which is restricted, even temporarily, in its freedom to negotiate with the other Power or its allies by reason of military events, more particularly where the whole, or a substantial part, of the territory of the said Power is occupied.

Whenever in the present Convention mention is made of a Protecting Power, such mention applies to substitute bodies in the sense of the present Article."

**Article 8** /9/9/9. *Amdt. Plen. Union of Soviet Socialist Republics.* 20.VII.1949. . . . . **26**

- (1) Delete, in the second paragraph the words: "no matter for what reason".
- (2) Complete the second paragraph by the addition of the words: "in the event of the government of the country of which protected persons are nationals having ceased to exist" after the words "Detaining Power".
- (3) Delete, in the third paragraph, the words "a humanitarian organization" and insert in place of them "a Relief Society invited".
- (4) Delete, in the fourth paragraph, the words "organization invited" and insert in place of them "a Relief Society invited".

**Article 9** /10/10/10. *Text adopted by the Special Committee of the Joint Committee on* 11.VII.1949. **27**

*Procedure of Conciliation.*

In cases where they deem it advisable in the interest of protected persons, particularly in cases of disagreement between the Parties to the conflict as to the application or interpretation of the provisions of the present Convention, the Protecting Powers shall lend their good offices with a view to settling the disagreement.

To this effect, each of the Protecting Powers may, either at the invitation of one Party, or of its own motion, propose to the Parties to the conflict a meeting of their representatives, in particular of the authorities responsible for \* the wounded and sick, members of medical personnel and chaplains, eventually in suitably chosen neutral territory. The Parties to the conflict shall be required to give effect to the proposals made to them for this purpose. The Protecting Powers may, if necessary, submit to the approval of the Parties to the conflict the name of a person belonging to a neutral Power, or delegated by the International Committee of the Red Cross, who shall be invited to take part in this meeting.

**Article 10.** *Amdt. Australia.* 28.IV.1949. . . . . **28**

- (a) Insert the following new paragraph at the commencement of this Article:  
The present Convention applies only to persons who are, for the time being on land.
- (b) For Article 10, paragraph 2, substitute:

The belligerent in whose power such sick and wounded are, shall care for them medically and so far as is practicable shall afford them at least the same care and treatment as is available to the sick and wounded of the armed forces of that belligerent and in providing such care and treatment shall not discriminate against them on account of nationality, race, religion or political opinion or for any other reason whatsoever except in so far as may be necessary by virtue of their treatment as prisoners of war according to Article 11 of this Convention.

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\* for the Maritime Convention: "the wounded, sick and shipwrecked, medical personnel and chaplains, event..."

for the Prisoners of War Convention: "prisoners of war, in suitably chosen neutral territory, if circumstances permit. The..."

for the Civilians Convention: "protected persons, in suitably chosen neutral territory, if circumstances permit. The..."

- Article 13.** *Extract from the Memorandum by the Government of the Netherlands* (Document No. 8 distributed by the Swiss Federal Political Department) . . . . . **No. 29**

*Paragraph 6.* — The Government of the Netherlands are of the opinion that the following addendum should be inserted after the second sentence of this paragraph:

“Belligerents shall communicate to each other the main particulars of such graves.”

Further, the last paragraph of Article 17 of the Maritime Warfare Convention should be added to Article 13 of the present Convention, which would then read as follows:

“Should sick, wounded, shipwrecked or dead be collected by neutrals on their own territory, the latter shall assume with regard to the belligerents the obligations set forth in the preceding paragraphs.”

- Article 14<sup>1,2</sup>.** *Extract from the Memorandum by the Government of Finland* (Document No. 9 distributed by the Swiss Federal Political Department) . . . . . **30**

“Should the activity of persons giving first aid be restricted? The previous text seems preferable. The Article does not make it compulsory for the civil population to give first aid, but merely provides for an appeal to the inhabitants. If any persons wish to do more for the sick, they should be allowed to do so. There do not seem to be adequate grounds for the fear that the Occupying Power would take advantage of the right conferred by this Article. In any case, the words “first aid” should be replaced by “relief”, as suggested by the International Committee of the Red Cross in their commentary published in February 1949.”

- Article 14<sup>3</sup>.** *Extract from the Memorandum by the Greek Government* (Document No 11 distributed by the Swiss Federal Political Department) . . . . . **31**

The first paragraph of Article 14 provides for the giving of “first aid to the wounded and sick” by the population and adds further down that persons giving such help “may at no time be molested or convicted”.

It is evident that this paragraph only provides for first aid, and cannot be held to relate to medical attention given either professionally, or as the result of engagement in the medical service of the adverse Party. It is for that reason that we consider that the third paragraph should be worded as follows:

“Members of medical personnel and civilians may at no time be molested or convicted for having given such attention to the wounded or sick.”

- Articles 19, 22, 23, 24.** *Amdts. United Kingdom. I.V.1949* . . . . . **32**

**Explanatory Note:**

The United Kingdom Delegation, having regard to the fact that in two world wars medical personnel and chaplains have necessarily remained in the hands of Detaining Powers for long periods, regard it as essential that the new Convention should provide for such persons as complete protection as has been enjoyed hitherto by prisoners of war under the Prisoners of War Convention. The following amendments are *circulated together* in order that the members of the two Committees concerned may be able to examine the United Kingdom Delegation's proposals as a whole.

*Wounded and Sick Convention*

*Article 19.* — Add new paragraph:

“Soldiers specially trained to be employed in case of necessity as stretcher-bearers for the collection, transport and care of the wounded and sick, and furnished with proof of their identity as such, shall, when exclusively employed on those duties be entitled to the same respect and protection as medical personnel”.

*Article 22* — Delete and substitute:

“In the event of the fixed medical establishments or mobile units falling into the hands of an adverse belligerent, the members of personnel designated in Articles 19 and 20 shall continue to carry out their medical or spiritual duties in accordance with their professional ethics, until such time as the adverse belligerent assumes responsibility for the wounded and sick in their care”.

*Article 23* — Delete.

*Article 24* — Delete.

*Prisoners of War Convention*

Insert: (*New*) *Article 19A*:

“Members of medical personnel and chaplains, whilst in the hands of a Detaining Power, as also prisoners of war authorized in accordance with Article 41, to care for or to minister to prisoners of war shall be provided with such transport between places where prisoners of war needing their care are detained as may be essential to provide necessary medical care and reasonable religious ministrations for prisoners of war. In particular, they shall be allowed to visit, for this purpose, from time to time, prisoners of war in labour detachments and in civil hospitals”.

*Article 24* — Paragraph 2 add at end:

“Members of medical personnel and chaplains, whilst in the hands of a Detaining Power, as also prisoners of war authorized in accordance with Article 41 to care for or minister to prisoners of war shall be working prisoners of war for this purpose”.

Insert: (*New*) *Article 28A*:

“Whenever medical personnel are in the hands of a Detaining Power, they shall continue if so required, to carry out, under the authority of the Detaining Power, their medical duties in accordance with their professional ethics, for the benefit of prisoners of war, preferably of their own nationality.

Such personnel, as also any prisoners of war, exercising their medical functions in accordance with the last section of Article 41, shall be granted additional opportunities for exercise and recreation including some freedom of movement in order to maintain mental and physical fitness for their particular duties.

“On the outbreak of war, belligerents shall mutually agree on the scales of medical personnel and chaplains who may be so required to function. Any surplus shall be treated as prisoners of war pending repatriation.”

*Article 30* — Delete and substitute:

“Prisoners of war shall enjoy complete liberty in the exercise of their religious duties including the services of their faith on the sole condition that they comply with the measure of order prescribed by the military authorities.”

Insert: (*New*) *Article 30A*:

“Chaplains in the hands of a Detaining Power may be required to minister to prisoners of war under the same conditions as are laid down for medical personnel in the first paragraph of Article 28A. They, as also prisoners of war exercising their functions as ministers of religion in accordance with the last paragraph of Article 41, shall be allowed to minister freely to prisoners of war their community. For that purpose the Detaining Power shall ensure their equitable allocation amongst the various camps and labour detachments, and they shall be granted additional opportunities corresponding to those provided for medical personnel under the second paragraph of Article 28A.”

Insert: (*New*) *Article 99A* (in Repatriation Section I):

“Medical and dental officers and nurses not required to provide medical care for prisoners of war shall be repatriated to the belligerent in whose service they were at the

time they fell into the hands of the Detaining Power as soon as the necessary transport arrangements can be mutually agreed between the belligerents concerned.

"The selection of those to be repatriated shall have regard to the state of health of those concerned and the chronological order of their capture."

*Article 115*

Add at end paragraph 4 from Article 30 of the Draft Prisoners of War Convention.

**Articles 19, 22, 23. Amdt. Switzerland. 3.V.1949. . . . .**

With the object of conciliating the points of view of the delegations taking part in the Diplomatic Conference, Geneva, and acting on the advice of several representatives of the medical services of different States, the Swiss Delegation wishes to submit the following amendments to the Conference:

*Article 19.*

Medical personnel exclusively employed in the search for, the removal, transportation and treatment of the wounded and sick or on the prevention of disease; personnel exclusively employed in the administration of medical formations and establishments and Chaplains attached to the Armies shall be respected and protected in all circumstances. Personnel occasionally employed as stretcher-bearers, male hospital attendants or nurses shall be respected and protected while fulfilling these duties.

*Article 22.*

Should personnel exclusively employed on the duties specified in Articles 19 and 20, fall into the hands of the adverse Party, they shall only be retained for so long as this is rendered necessary by medical conditions, the spiritual needs and the numbers of the prisoners of war involved.

Personnel thus retained shall not be prisoners of war but shall be treated in accordance with the provisions of the Convention of ... relating to the treatment of prisoners of war, with the following reservations:

This personnel shall continue, under the authority of the Detaining Power and in particular under that of its medical services, to act according to its professional etiquette regarding medical or spiritual duties, for the benefit of prisoners of war, who should be preferably of its own nationality. In order that they may continue to fulfil their humanitarian mission in the best possible conditions, the Detaining Power shall accord them certain facilities. It will in particular ensure they are allowed the same maintenance, similar billeting and rationing as that of corresponding personnel in its own Army. It will further grant all facilities concerning correspondence necessitated by their particular functions, as well as for travel facilities rendered necessary by their duties, either with or without escort. Furthermore, in any camp, retained medical personnel shall be entitled to a representative who will act in the capacity of spokesman. In principle, this person shall be the senior medical officer of the highest rank. He shall be the representative of the medical personnel retained in the camp and shall act on their behalf in relations with the Detaining Power, the Protecting Powers, the I.C.R.C., as also with any organizations giving relief to prisoners and detained personnel. He shall have direct access to the military and medical authorities of the camp.

The retained personnel shall be subject to the internal discipline of the camp where they are retained. They shall not, however, be compelled to do any work not covered by the medical profession. At the beginning of hostilities the belligerents shall agree on the matter of the corresponding ranks of their medical personnel, including that of the organizations mentioned in Article 20. During the course of hostilities belligerents shall agree on the subject of the eventual release of retained personnel and shall establish a procedure for its implementation.

None of the foregoing provisions shall release the Detaining Power from its obligations in the medical and spiritual fields concerning prisoners of war.

Article 23.

Paragraph 1: Last sentence. The foregoing reservations shall not apply to personnel who it has been decided to return to their country of origin and who, while awaiting transportation, do not perform any medical duties.

The Swiss Delegation desires also to recommend that, the whole of Chapter IV in the Wounded and Sick Convention be incorporated in the Prisoners of War Convention.

Article 22. Amdt. United Kingdom. 1.v.1949. See Annex No. 32.

Article 22. Amdt. Switzerland. 3.v.1949. See Annex No. 33.

Article 22. Third paragraph. Extract from the Memorandum by the Government of the Netherlands. (Document No. 18 distributed by the Swiss Federal Political Department) . . . . .

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The election of a spokesman provided for in the second sentence of this paragraph might prove prejudicial to the position of the senior medical officer of the highest rank. Hence the Government of the Netherlands is of the opinion that the working of the medical service in the camp would gain in efficiency if the passage relating to the election of a spokesman were deleted, and a new paragraph added after the third paragraph of Article 22, to read as follows:

“In the execution of the duties set forth in the first paragraph the medical personnel in each camp shall be organized as a unit, their disciplinary relations remaining unchanged. The senior member of the personnel of the highest rank shall be recognized as the commanding officer of the unit. He shall represent retained personnel before the military authorities, the Protecting Powers and the International Committee of the Red Cross. He shall have direct access to the authorities of the medical service of the Detaining Power and to the military authorities responsible for the prisoner of war camps. The same rules shall apply to chaplains.”

Articles 23 and 25, etc. Note from the Head Office of International Railway Transport. (Document No. 12). . . . .

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The Head Office of International Railway Transport, who were invited by the Conference to send a delegation of observers, has explained its views on certain matters included in their sphere of action in the following letter:

“The provisions in the various Conventions (e.g. Wounded and Sick Convention, Arts. 23 and 25; Prisoners of War Convention, Art. 100; Civilians Convention, Art. 100) which deal in particular with repatriation, do not always specify very clearly by whom transport costs are to be borne. During the recent hostilities, the problem of transport costs at times delayed the operation of repatriation. It would therefore seem advisable to specify in each case which authority shall bear transport costs in the event of carriage either of persons or of articles, unless free transport has been explicitly stipulated. We would further add that in the light of the International Conventions governing railway transport of passengers, luggage and goods (International Passengers Convention, Art. 24 and International Goods Convention, Art. 9) reductions of rates are granted, more especially to welfare organizations. While the States represented at the Diplomatic Conference of Geneva are not all party to the IPC and IGC, it is interesting to note that in Europe, for instance, there are no international regulations (in the form of an agreement between the administrations belonging to the International Railways Union whose Head Office is in Paris) providing for reductions for welfare organizations.”

Article 23. Amdt. United Kingdom. 1.v.1949. See Annex No. 32.

**Article 23.** *Amdt. Switzerland.* 3.v.1949. See Annex No. 33.

**Article 24.** *Amdt. United Kingdom.* 1.v.1949. See Annex No. 32.

**Article 25.** *Note Head Office of International Railway Transport.* See Annex fo. 35.

**Article 26.** *Amdt. United Kingdom.* 2.v.1949. . . . . **36**

Delete the Article and substitute the following:

“The buildings, material and stores of fixed medical establishments and of mobile medical units of the armed forces shall remain subject to the laws of war, but may not be diverted from their purpose, as long as they are required for the care of wounded and sick.

Nevertheless, the commanders of forces in the field may make use of them, in case of urgent military necessity, provided that they make previous arrangements for the welfare of the wounded and sick who are nursed in them.”

**Article 28.** *Amdt. United Kingdom.* 2.v.1949. . . . . **37**

Add as paragraph 3

“If the services of civilians and means of transport are requisitioned for the transport of the wounded and sick, such requisitions shall be subject to the laws and customs of war.”

**Article 29.** *Amdt. United Kingdom.* 2.v.1949. . . . . **38**

Paragraph 1: Insert after “attack” the words “when flying on routes, at heights and times specifically agreed between all belligerents concerned.”

**Articles 29, 29A, 29B.** *Amdts. Finland and Monaco.* 29.IV.1949 . . . . . **39**

*Article 29 — Medical aircraft (Definition)*

Medical aircraft—that is to say aircraft exclusively employed for the removal of wounded and sick, as well as the transport of medical personnel or material, or the clearance of contaminated zones or localities, shall not be the object of attack and shall be respected by belligerents.

*Article 29A — Recruiting*

Apart from public craft specially built by the belligerents for this purpose, private craft for transport, commercial uses or tourism of national construction, may be transformed at the outset of or during hostilities into medical aircraft, on condition they are employed for this purpose only for the duration of hostilities.

National Red Cross Societies or Voluntary Aid Societies officially recognized by the belligerent or neutral Powers may also recruit and equip aircraft to be placed at the belligerents disposal for the above-mentioned purposes.

*Article 29B — (Registration)*

Medical aircraft shall be inscribed by belligerents in special registers and this registration shall be notified to the opposing Power.

They shall be painted white and bear, clearly marked, the distinctive emblem prescribed in Article 31, together with their national colours, on the lower, upper and lateral surfaces.

<b>Article 30.</b> <i>Amdt. United Kingdom.</i> 2.v.1949 . . . . .	<b>40</b>
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(1) Add at end of paragraph 1:

“They will be immune from attack only when flying on routes, at heights and times specifically agreed between all belligerents and the neutral Power concerned.”

(2) Paragraph 3:

Insert after “wounded and sick” in line 3 the words “other than merchant seamen and civilian air crews”.

<b>Articles 30, 30A.</b> <i>Amdts. Finland and Monaco.</i> 29.IV.1949 . . . . .	<b>41</b>
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*Article 30 — Flight over enemy territory.*

Medical aircraft flying over enemy or occupied territory shall obey every summons to land.

In case of involuntary or forced landing in the territories mentioned above, the wounded and sick members of armed forces on board shall be prisoners of war. The medical personnel and the crew may be retained on condition they receive treatment in conformity with Articles 19 and following. The aircraft may be seized on condition it is employed by the medical services of the capturing Power.

*Article 30A — Passage over neutral territory and landings.*

Medical aircraft shall be allowed to fly over the territory of neutral Powers and to call there. They shall obey all summons to alight.

Military wounded and sick who are voluntarily landed on neutral territory by medical aircraft shall, unless the belligerent States have made an agreement to the contrary, be detained by the neutral Power in such a manner that they cannot again take part in operations of war. The cost of their accommodation and internment shall be borne by the Power on which the wounded and sick depend.

In no case shall the aircraft and crew be detained.

<b>Article 31.</b> Paragraph 2. <i>Amdt. Israel.</i> 2.v.1949 . . . . .	<b>42</b>
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The Israeli Delegation proposes that this paragraph should be as follows:

“Nevertheless in the case of countries which already use, as a distinctive sign, in place of the Red Cross, the Red Crescent or the Red Lion and Sun on a white ground, or also the Red Shield of David on a white ground, those emblems are recognized by the terms of the present Convention.”

<b>Article 33.</b> fourth paragraph. <i>Extract from the Memorandum by the Government of the Netherlands</i> (Document No. 8 distributed by the Swiss Federal Political Department) . . . . .	<b>43</b>
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The experiences of the second World War have shown that it is necessary to word the first sentence as follows:

“In no circumstances shall the personnel mentioned above be deprived of the right to wear their armbands on their left arm, or of their identity cards.”

<b>Article 33.</b> <i>Amdt. United Kingdom.</i> 2.v.1949 . . . . .	<b>44</b>
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(1) Delete paragraphs 2 and 3 and substitute:

“Such personnel shall be provided with an identity card worded in the national language, which shall show the particulars set out in Article 112 of the Convention relative to the treatment of Prisoners of War as revised, and which shall bear the Red Cross emblem.”

(2) Insert new paragraph:

“Stretcher-bearers will wear affixed to the left arm, a white armlet with the letters “S. B.” in red.”

**Article 36.** *Amdt. United Kingdom.* 4.IV.1949 . . . . . **45**

(1) Delete paragraph 2 and substitute:

“The Voluntary Aid Societies mentioned in Article 20 may, in accordance with their national legislation, use the distinctive emblem in connection with their humanitarian activities in time of peace.”

(2) Insert new paragraph after paragraph 2:

“Voluntary Aid Societies and their members may use in war-time the Red Cross emblem in badges and on notepaper, provided that the size of such emblem does not exceed 2 centimetres each way. Any other use of the emblem by Voluntary Aid Societies in war-time will be permissible only if it is within paragraph 1 of this Article.”

(3) In the third paragraph line 2 delete “at any time” and substitute “in peace-time”. Delete all the words after “conferences” at the end of the last sentence.

(4) Delete paragraph 4 and substitute:

“The International Red Cross Committee and its duly authorized personnel shall be similarly permitted to make use, at all times, of the emblem of the Red Cross on a white ground. In war-time, other organizations of the International Red Cross shall conform to the restrictions imposed in the third (new) paragraph of this Article.”

**Article 37.** *Amdt. Australia.* 2.V.1949. . . . . **46**

For paragraph 1 substitute:

“Each belligerent, through its respective Commander-in-Chief, shall arrange the details for the carrying out of the specific provisions of this Convention and also for dealing in conformity with the general principles of this Convention with cases for which no specific provision is made therein.”

**Article 37.** *Text adopted by Committee I.* 20.VI.1949. . . . . **47**

*Implementing*

“Each belligerent, acting through its Commanders-in-Chief, shall ensure the detailed execution of the preceding Articles, and provide for unforeseen cases, in conformity with the general principles of the present Convention.”

**Article 38** /42 /117 /128. *Text adopted by the Special Committee of the Joint Committee* on 10.VI.1949 **48**

(The Articles 38 Wounded and Sick and 42 Maritime are those of Stockholm.)

*Prisoners of War Convention*

*Article 117: Dissemination of the Convention.*

The High Contracting Parties undertake, in time of peace as in time of war, to disseminate the text of the present Convention as widely as possible in their respective countries and, in particular, to incorporate the study thereof in their programme of military and, if possible, civil instruction, so that the principles thereof may become known to all their armed forces and to the population.

Any authorities, military or other, who in time of war assume responsibilities with respect to prisoners of war, must possess the text of the Convention, and be specially instructed as to its provisions.

*Civilians Convention*

*Article 128: Dissemination of the Convention*

The High Contracting Parties undertake, in time of peace as in time of war, to disseminate the text of the present Convention as widely as possible in their respective countries and, in particular, to incorporate the study thereof in their programme of military and, if possible, civil instruction, so that the principles thereof may become known to the whole of the population.

Any civilian, military, police or other authorities who, in time of war, assume responsibilities in respect of protected persons must possess the text of the Convention, and be specially instructed as to its provisions.

**Articles 39-40 /43-44 /II9 /130. Amdts. Australia, Belgium, Brazil, France, Italy, Netherlands, Norway, United Kingdom, United States of America and Switzerland. 24.VI.1949. . . . .**

Delete the above mentioned Articles and replace them by the following provisions:

*Article A*

“The High Contracting Parties, insofar as this Convention cannot be otherwise implemented, undertake to enact in accordance with their respective Constitutions, legislation to provide effective penalties for persons committing or ordering to be committed any of the grave breaches defined in the following Article.

Each Contracting Party shall be under the obligation to search for persons alleged to have committed or to have ordered to be committed any of the above mentioned grave breaches and shall, regardless of their nationality bring before its own courts all persons committing or ordering to be committed such grave breaches, or if it prefers, and provided that a *prima facie* case has been made out by another High Contracting Party concerned, hand them over for trial to such Contracting Party.

Each High Contracting Party shall take measures necessary for the repression of all acts contrary to the provisions of the present Convention other than the above mentioned grave breaches.”

*Article B*

“Grave breaches to which the preceding Article relates shall be those involving any of the following acts, if committed against persons or property protected by the Convention:

*Wounded and Sick Convention*

the wilful killing, torture or maltreatment, including biological experiments, the wilful causing of great suffering or serious injury to body or health, and the extensive destruction of property, not justified by military necessity and carried out unlawfully and wantonly.

*Maritime Convention*

the wilful killing, torture or maltreatment, including biological experiments, the wilful causing of great suffering or serious injury to body or health, and the extensive destruction of property, not justified by military necessity and carried out unlawfully and wantonly.

*Prisoners of War Convention*

the wilful killing, torture or maltreatment, including biological experiments, the wilful causing of great suffering or serious injury to body or health, compelling a prisoner of war to serve in the forces of the hostile power, or wilfully depriving the prisoner of war of the rights of fair and regular trial prescribed in this Convention.

*Civilians Convention\**

the wilful killing, torture or maltreatment, including biological experiments, the wilful causing of great suffering or serious injury to body or health, the unlawful deportation or transfer or unlawful confinement of, compelling a protected person to serve in the forces of a hostile Power, or wilfully depriving a protected person of the rights of fair and regular trial prescribed in this Convention, the taking of hostages and the extensive destruction of property, not justified by military necessity and carried out unlawfully and wantonly."

**Articles 39<sup>1</sup>-40/43<sup>1</sup>-44/119/130. Correction I.C.R.C. 5.v.1949 . . . . . 50**

The International Committee of the Red Cross wishes to state that a material error occurred in the Draft Conventions they were requested to publish subsequent to the Stockholm Conference, which error was reproduced in the Working Documents drawn up by the Swiss Federal Council. A delegation has just drawn the Committee's attention to the said error. The Article concerned is 119 of the Prisoners of War Convention (Art. 130 of the Civilians Convention, Arts. 39 and 40 of the Wounded and Sick Convention and Arts. 43 and 44 of the Maritime Convention).

As shown in the Records and shorthand Minutes of the Stockholm Conference, the said Conference adopted in place of paragraph 1 of Article 119 the text of Article 29 of the 1929 Geneva Convention relative to the Wounded and Sick. Further, as regards paragraph 2 of Article 119, the Stockholm Conference adopted a text corresponding to the said paragraph 2 but which did not contain the term "or to the Conventions for the repression of acts which may be defined as war crimes."

The text adopted by the Stockholm Conference for Article 119 of the Prisoners of War Convention and the corresponding Articles of the other Draft Conventions was therefore as follows:

"The Governments of the High Contracting Parties shall also propose to their legislatures, should their penal laws be inadequate, the necessary measures for the repression in time of war of any act contrary to the provisions of the present Conventions.

Each Contracting Party shall be under obligation to search for persons alleged to be guilty of breaches of the present Convention, whatever their nationality, in accordance with its own laws to indict such persons before its own tribunals, or if it prefers, to hand them over for judgment to another Contracting Party."

**Article 39/43/119/130. Amdt. Canada. See Annex No. 8.****Article 39/43/119/130. Text adopted by the Special Committee of the Joint Committee on 28.VI.1949. 51**

The High Contracting Parties undertake to enact any legislation necessary to provide effective penalties for persons committing, or ordering to be committed, any of the grave breaches defined in the following Article.

Each Contracting Party shall be under the obligation to search for persons alleged to have committed or to have ordered to be committed any of the above mentioned grave breaches and shall, regardless of their nationality bring before its own courts all persons committing or ordering to be committed such grave breaches, or if it prefers, and provided that a *prima facie* case has been made out by another High Contracting Party concerned, hand them over, in accordance with the provisions of its own legislation, for trial to such Contracting Party.

Each High Contracting Party shall take measures necessary for the repression of all acts contrary to the provisions of the present Convention other than the above mentioned grave breaches.

\* N.B. Final wording dependant on final form of Article 3 of the Civilians Convention.

**Article 39/43/II9/I30.** *Amdt. France to the Text adopted by the Special Committee of the Joint Committee.* (see preceding Annex) 16.VII.1949. . . . .

52

*Wounded and Sick, Maritime, and Civilians Conventions.*

Add a fourth paragraph which runs as follows:

“In all circumstances, the accused persons shall benefit by safeguards of proper trial and defence, which shall not be less favourable than those provided by Article 95 and those following of the Convention of . . . . . relative to the Treatment of Prisoners of War.”

*Prisoners of War Convention*

Add a fourth paragraph which runs as follows:

“In all circumstances, the accused persons shall benefit by safeguards of proper trial and defence, which shall not be less favourable than those provided by Article 95 and those following of the present Convention.”

**Article 39/43/II9/I30** *Amdt. Plen. U.S.S.R.* 20.VII.1949. . . . .

53

Delete the wording of the Article as proposed by the Joint Committee and *substitute* the following:

“The High Contracting Parties undertake to enact any legislation necessary to provide effective penalties for persons committing, or ordering to be committed, any of the grave breaches defined in the following Article.

Each Contracting Party shall be under the obligation to search for persons alleged to have committed or to have ordered to be committed any of the above mentioned serious breaches and shall, regardless of their nationality, bring before its own courts all persons committing or ordering to be committed such serious breaches, in obedience to its own legislation or to the Conventions repressing such acts as may be defined as breaches. Each Party, if it prefers, and provided that a *prima facie* case has been made out by another High Contracting Party concerned, hand them over, in accordance with the provisions of its own legislation, for trial to such Contracting Party.

Each High Contracting Party shall take measures necessary for the repression of all acts contrary to the provisions of the present Convention other than the above mentioned grave breaches.”

**Articles 39/43/II9/I30 and 40/44/II9A/I30A.** *Amdt. Plen. U.R.S.S.* 21.VII.1949 . . . . .

53A

Delete the word “infractions” in these Articles and replace it by the word “crimes”.

**Article 40/44/II9<sup>2</sup>/I30<sup>2</sup>.** *Amdt. Canada.* See Annex No. 8.

**Article 40/44/II9A/I30A.** *Amdt. Plen. U.S.S.R.* See Annex No. 53A.

**Article 40/44/II9/I30.** *Amdts. Denmark* . . . . .

54

(1) *Amdt.* 4.V.1949: Add the following paragraph:

“In the event of two or several contracting States differing as to the interpretation or application of the stipulations of the present Convention, or as to the indemnity due to one of their nationals or to one of the persons placed under their protection, or as to other legal consequences arising from infringement of the said stipulations, each of the Parties may, in the form of a request, submit the difference to the International Court of Justice set up by the United Nations Charter.

The Parties undertake to abide by the decisions of the Court”.

(2) *Amdt.* 10.VI.1949: Add to the preceding text the following paragraph:

“During hostilities between the Parties in litigation the dispute may not be submitted to the Court before a serious effort has been made to settle it by means of conciliation, good offices or the procedure of enquiry provided in the present Convention. In the event of a disagreement as to whether the conditions under which the dispute may be submitted to the Court are, or are not, fulfilled, the Court shall decide.”

**Article 40/44/119A/130A.** *Text adopted by the Special Committee of the Joint Committee on 28.VI.1949 . . . . .*

55

*Wounded and Sick and Maritime Conventions*

*Articles 40/44: Penal sanctions (continuation)*

Grave breaches to which the preceding Article relates shall be those involving any of the following acts, if committed against persons or property protected by the Convention: the wilful killing, torture or maltreatment, including biological experiments, the wilful causing of great suffering or serious injury to body or health, and the extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly.

*Prisoners of War Convention*

*Article 119A: Penal sanctions (continuation).*

Grave breaches to which the preceding Article relates shall be those involving any of the following acts, if committed against persons or property protected by the Convention: the wilful killing, torture or maltreatment, including biological experiments, the wilful causing of great suffering or serious injury to body or health, compelling a prisoner of war to serve in the forces of the hostile power, or wilfully depriving the prisoner of war of the rights of fair and regular trial prescribed in this Convention.

*Civilians Convention*

*Article 130A: Penal sanctions (continuation)*

Grave breaches to which the preceding Article relates shall be those involving any of the following acts, if committed against persons or property protected by the Convention: the wilful killing, torture or maltreatment, including biological experiments, the wilful causing of great suffering or serious injury to body or health, the unlawful deportation or transfer or unlawful confinement of, compelling a protected person to serve in the forces of a hostile Power, or wilfully depriving a protected person of the rights of fair and regular trial prescribed in this Convention, the taking of hostages and the extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly.

**Article 40A/44A/119B/130B.** *Text adopted by the Special Committee of the Joint Committee on 29.VI.1949 . . . . .*

56

No Contracting Party shall be allowed to absolve itself or any other Contracting Party of any liability incurred by itself or by another Contracting Party as a result of breaches provided for in the preceding Article.

**Article 51/54/129/139.** *Text adopted by the Special Committee of the Joint Committee on 16.VI.1949*

57

Each of the High Contracting Parties shall be at liberty to denounce the present Convention.

The denunciation shall be notified in writing to the Swiss Federal Council, which shall transmit it to the Governments of all the High Contracting Parties.

The denunciation shall take effect one year after the notification thereof has been made to the Swiss Federal Council. However, a denunciation of which notification has been made at a time when the denouncing Power is involved in a conflict shall not take effect until peace has been concluded and operations connected with release and repatriation\* of the persons protected by the present Convention are terminated.

The denunciation shall have effect only in respect of the denouncing Power. It shall in no way impair the obligations which the Parties to the conflict shall remain bound to fulfil by virtue of the principles of the law of nations, as they result from the usages established among civilized peoples, from the laws of humanity, and the dictates of the public conscience.

**Article 52/55/130/140.** *Text adopted by the Special Committee of the Joint Committee on 10.VI.1949* **58**

The Government of the Swiss Confederation shall register the present Convention with the Secretariat of the United Nations. The Government of the Swiss Confederation shall also inform the Secretariat of the United Nations of all ratifications, accessions and notices of termination received by that Government with respect to the present Convention.

**Annex I.** *Text proposed by a Working Party* . . . . . **59**

*Article 1. Persons entitled to the right of protection*

Hospital zones shall be strictly reserved for the persons named in Article 18 of the Geneva Convention relating to the Sick and Wounded.

Nevertheless, persons whose permanent residence is within the zone thus constituted, shall have the right to stay there.

*Article 2. Prohibited Work*

All persons residing, in whatever capacity, in a hospital zone shall perform no work, either within or without the zone, directly connected with military operations or the production of war material.

*Article 3. Prohibition of access*

The Power establishing a hospital zone shall take all necessary measures to prohibit access to all persons who have no right of residence or entry therein.

*Article 4. Conditions*

Hospital zones shall fulfil the following conditions:

- (a) They shall constitute only a small area of the territory governed by the Power on which they depend.
- (b) They shall be thinly populated in relation to the possibilities of accommodation.
- (c) They shall be far removed and free from all military objectives, or large industrial or administrative establishments.
- (d) They shall not be situated in areas which, according to every probability, may become important for the conduct of the war.

*Article 5. Obligations*

They shall be subject to the following obligations:

- (a) The lines of communication and means of transport which they possess shall not be used for the transport of military personnel or material, even in transit.
- (b) They shall in no case be defended by military means.

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\* for the Civilians Convention: "and re-establishment"

*Article 6. Markings*

They shall be marked by means of the Red Cross Emblem, placed on the outer precincts and on the buildings. They may be similarly marked at night by means of appropriate illumination.

*Article 7. Notification and Opposition*

The Powers shall communicate to all the Contracting Parties, not later than at the outbreak of hostilities a list of the hospital zones in the territories governed by them. They shall give notice of any new zones set up during hostilities.

As soon as the adverse party has received the above mentioned notification, the zone shall be regularly constituted.

If however, the adverse Party considers that the conditions of the present agreement have not been fulfilled, it may refuse to recognize the zone by giving immediate notice thereof to the Party responsible for the said zone; or may make its recognition of such zone dependant upon the institution of the control provided for in Article 8.

*Article 8. Inspection*

Any power having recognized one or several hospitals or safety zones instituted by the adversary shall be entitled to demand control by the Power protecting its interests, to ascertain if the zones fulfil the conditions and obligations stipulated in the present agreement.

To this effect the representatives of the Protecting Power shall at all times have free access to the various zones and may even reside there permanently. They shall be given all facilities for their duties of inspection.

*Article 9. Sanctions*

Should the Protecting Powers note any facts which they consider contrary to the stipulations of the present agreement, they shall at once draw the attention of the Power governing the said zone to these facts, and shall fix a time-limit of five days to settle the matter. They shall duly notify the Power whose interests they protect.

If, when the time-limit has expired, the Power governing the zone has not complied with the warning, the adverse Party may declare that it is no longer bound by the present agreement in respect of the said zone.

*Article 10. Respect of Zones*

In no circumstances may hospital zones be the object of attack. They shall be protected and respected at all times by the Parties to the conflict.

*Article 11. In case of Occupation*

In the case of occupation of a territory, the hospital zones therein shall continue to be respected and utilized as such.

Their purpose may however be modified by the Occupying Power, on condition that all measures are taken to ensure the safety of the persons accommodated.

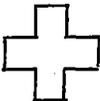
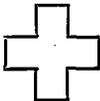
*Article 12. Localities*

The present agreement shall also apply to localities which the Powers may utilize for the same purpose as hospital zones.

**Annex II. Identity card (Article 33)** . . . . .

No.  
**60**

*Front*

	(Name of the country and military authority issuing this card)	
<h1>IDENTITY CARD</h1>		
for members of medical and religious personnel attached to the armed forces		
Name.....		
First names .....		
Date of Birth .....		
Rank .....		
Army Number .....		
The bearer of this card is protected by the Geneva Convention of ..... for the Relief of the Wounded and Sick in Armed Forces in the Field, in his capacity as .....		
Date of issue	Number of Card	
.....	.....	

*Reverse Side*

<div style="border: 1px dashed black; width: 80%; margin: 0 auto; padding: 5px;">Photo of bearer</div> <div style="border: 1px dashed black; width: 30%; margin: 10px auto; border-radius: 50%; padding: 5px; text-align: center;">                 Embossed stamp of military authority issuing card             </div>	Fingerprints (optional)	
Height	Eyes	Hair
.....	.....	.....
Other distinguishing marks .....		
.....		
.....		
Signature of bearer		
.....		

**Letter addressed to the Chairman of Committee I by the United Kingdom Delegation**  
28.IV.1949 . . . . .

**61**

Dear Mr. Chairman,

1. The United Kingdom Delegation will seek to have many provisions in the Wounded and Sick Convention relating to medical personnel and chaplains, deleted and corresponding (and we think more adequate) provisions inserted in the Prisoners of War Convention.
2. If each Committee proceeds with the consideration of the United Kingdom draft amendments independently, confusion may easily arise.
3. The United Kingdom Delegation would therefore suggest that the whole principle of the treatment of medical personnel should be discussed on their motion to delete Article 22 from the Wounded and Sick Convention in Committee I. If their proposal is carried then they would suggest that a joint committee of Committee I and II, on which any country desiring it should be represented, should be established to work out jointly the consequential amendments to both Conventions. The United Kingdom Delegation would be grateful if they could have an opportunity to explain this proposed procedure to Committee II about the time that the matter will fall to be opened in Committee I.
4. As the matter in question will largely concern the same members of many delegations, they suggest that the two Committees should not meet simultaneously when the subject of protected personnel comes before Committee I.

5. I am sending a letter in identical terms to the Chairman of Committee II. My object in writing to you and him at this stage is to assist in facilitating the work of the Committees and I should be at your disposal to discuss the procedure I have suggested if any point in this letter is not entirely clear.

6. I should add that the United Kingdom Delegation is tabling as one batch of amendments with a short preparatory note, all the amendments of substance which it would propose in order to deal with this question and we hope it may be possible to have them circulated by the end of this week. We shall not include in this batch purely editorial and consequential amendments which may, if our proposals are adopted, be necessary in either Convention,

Your sincerely,  
(W. H. GARDNER)

Sir Dhiren Mitra,  
Chairman, Committee I.

- Article 2/2/2/2.** Third paragraph. *Amdt. Canada.* See annex No. **8.**
- Article 2/2/2/2.** Third paragraph. *Amdt. Belgium.* See Annex No. **9.**
- Article 2/2/2/2.** *Passage from "Remarks and Proposals" I.C.R.C.* See Annex No. **10.**
- Article 2/2/2/2.** Fourth paragraph *Amdt. Australia.* See Annex No. **11.**
- Article 2/2/2/2.** Fourth paragraph. *Amdt. France.* See Annex No. **12.**
- Article 2/2/2/2.** Fourth paragraph. *Amdt. France. To the second chapt. of the first W. P.* See Annex No. **13.**
- Article 2/2/2/2.** *Text adopted by the Special Committee.* See Annex No. **14.**
- Article 2A/2A/2A/2A.** *Amdt. Plen. U.S.S.R.* See Annex No. **15.**
- Article 4/5/5/5.** *Text adopted by the Special Committee.* See Annex No. **16.**
- Article 5/6/6/6.** *Passage from "Remarks and proposals" I.C.R.C.* See Annex No. **17.**
- Article 5/6/6/6.** *Text presented to the XVIIth R.C. Conference.* See Annex No. **18.**
- Article 6/7/7/7.** *Amdt. Canada.* See Annex No. **8.**
- Article 6/7/7/7.** *Draft adopted by the Special Committee.* See Annex No. **19.**
- Article 8/9/9/9.** *Extract of Memorandum by United Kingdom.* See Annex No. **20.**
- Article 8/9/9/9.** *Amdt. France.* See Annex No. **21.**
- Article 8/9/9/9.** Third paragraph. *Amdt. France.* See Annex No. **22.**
- Article 8/9/9/9.** *Amdt. United Kingdom.* See Annex No. **23.**
- Article 8/9/9/9.** *Aide Memoire I.R.O.* See Annex No. **24.**
- Article 8/9/9/9.** *Text adopted by the Special Committee.* See Annex No. **25.**
- Article 8/9/9/9.** *Amdt. Plen. U.S.S.R.* See Annex No. **26.**
- Article 9/10/10/10.** *Text adopted by the Special Committee.* See Annex No. **27.**

	No.
<b>Article 11.</b> <i>Amdt. United Kingdom. 23.IV.1949.</i> . . . . .	<b>62</b>
<i>Delete:</i> whole Article.	
<i>Substitute:</i>	
“At sea all persons who are wounded or sick or shipwrecked shall be respected and protected in all circumstances. They shall be treated with humanity and cared for by the belligerent in whose power they may be. Women and children shall be treated with all consideration due to their sex and age and in no case should their treatment be less favourable than that accorded to men.	
Throughout this Convention the term shipwrecked means shipwrecked from any cause and includes those who make forced landings or bale out from aircraft into the sea.”	
<b>Articles 12, 14, 15.</b> <i>Extract from the Propositions made by the Government of the Netherlands (Document No. 8)</i> . . . . .	<b>63</b>
It would be advisable to point out that the wounded, sick and shipwrecked mentioned in Articles 12, 14 and 15 are those named in Article 11, paragraph 1, of the present Draft Convention.	
<b>Article 14.</b> <i>Amdt. United Kingdom. 23.IV.1949.</i> . . . . .	<b>64</b>
<i>Delete and substitute:</i>	
“Wounded, sick or shipwrecked persons, other than merchant seamen and civilian aircrews, belonging to the categories set forth in Article 3 of the Prisoners of War Convention*, who are sent by a belligerent to a neutral port or who are picked up by a neutral warship, shall, in default of any arrangement to the contrary between the neutral Power and both belligerents, be so guarded that they cannot again take part in the operations of the war; and no such person sent by a belligerent to one of its enemy’s ports shall be again employed on active military service during the continuance of hostilities.”	
<b>Article 15.</b> <i>Amdt. United Kingdom. 23.IV.1949.</i> . . . . .	<b>65</b>
<i>Delete and substitute:</i>	
“The persons referred to in Article 14 shall, however, if they reach a neutral port by their own efforts or in ships’ boats, or if they are picked up by a neutral merchant ship, be free; all civilians, including merchant seamen and civilian aircrews, sent to a neutral port by a belligerent captor, or picked up by a neutral ship, or reaching a neutral port by their own efforts or in ships’ boats shall likewise be free.”	
<b>Article 19.</b> <i>Amdt. Columbia. 2.V.1949</i> . . . . .	<b>66</b>
<i>Add at the end of the Article:</i>	
“Military hospital ships, that is to say, ships built or equipped by the Powers specially for use on frontier rivers and lakes and which are, like the military hospital ships, built or equipped specially and solely with a view to assisting the wounded, sick and shipwrecked, may likewise in no circumstances be attacked or captured, but shall also at all times be respected and protected by the belligerents, regardless of their tonnage, provided that their names and descriptions have been notified to the belligerent Powers and that the handing out of this notification has been confirmed by the Protecting Power thirty days before the said ships are employed.”	

\* Footnote making clear the name of the new Convention.

**Article 19. Amdt. Denmark. 9.V.1949 . . . . . 67**

Military "cruiser" hospital ships are hospital ships of a gross tonnage of not less than 2000 tons, which are built or equipped by the Powers specially and solely with a view to assisting and transporting the wounded, sick and shipwrecked.

They may in no circumstances be attacked or captured or requisitioned, but shall at all times be respected and protected by the belligerents, on condition that their names and descriptions, including their gross tonnage, their length from stem to stern, and their number of masts and funnels, have been notified to the belligerent Powers before the said ships are employed.

Coastal military hospital ships built or equipped by the Powers specially and solely with a view to assisting and transporting the wounded, sick and shipwrecked shall benefit by the same protection and respect as the vessels described above.

**Article 19. Amdt. United Kingdom. 23.IV.1949 . . . . . 68**

"Military hospital ships, that is to say, ships of not less than 2,000 gross registered tons constructed or adapted by States specially and solely with the object of assisting or transporting wounded, sick and shipwrecked, whose names and description have been communicated to the belligerent Powers before they are so employed, shall be respected and shall not be attacked or captured while hostilities last.

The details which shall be given in the notification must include gross registered tonnage, length from bow to stern and number of masts and funnels."

**Article 20. Amdt. Denmark. 9.V.1949 . . . . . 69**

Coastal hospital ships utilized by National Red Cross Societies, by officially recognized relief societies or by private persons shall likewise be respected and exempt from capture and requisition if the belligerent Power on which they depend has given them an official commission, in so far as the provisions of Article 19, paragraph 2 have been complied with.

These ships must be provided with certificates of the responsible authorities, stating that the vessels have been under their control while fitting out and on departure.

**Article 20. Amdt. Italy. 6.V.1949 . . . . . 70**

Article 20 to be deleted and replaced by the following:

*"Hospital Ships of small tonnage and Life-Boats"*

"Hospital ships and vessels having a gross tonnage of less than 1,000 tons, built or equipped specially and solely with a view to assisting the wounded, sick and shipwrecked, which are utilized by the naval forces of belligerent countries, shall benefit by the same protection as the hospital ships described in Article 19. All these vessels and ships shall be notified according to the same procedure as that in force regarding hospital ships.

They shall not be utilized in organized search parties but shall leave their fixed bases upon receiving orders to operate, broadcast in clear by wireless, indicating the aim of their task and the destination to which they are to proceed.

On returning to their base they shall not exceed a speed of 5 miles, except in the event of urgency for treatment of wounded."

**Article 20. Amdt. United Kingdom. 23.IV.1949 . . . . . 71**

"For the purposes of the present Convention, "private hospital ships" shall mean ships of not less than 2,000 gross registered tons constructed or adopted by private persons, including juridical persons, or officially recognized relief societies, whether of belligerent or neutral countries, specially and solely with the object of assisting wounded, sick and shipwrecked.

Private hospital ships, whose name and description have been communicated to the belligerent Powers before they are used for this object, shall be respected and shall not be attacked or captured while hostilities last.

The details which shall be given in the notification must include gross registered tonnage, length from bow to stern and number of masts and funnels.

The belligerent under whose control a private hospital ship has been placed shall give it an official commission and a certificate that it is constructed or adapted specially and solely for use as a hospital ship; in the case of a neutral ship the consent of the neutral Power shall have been obtained."

**Article 20A.** *Amdt. Denmark.* 9.v.1949 . . . . . 72

Coastal auxiliary boats and life-boats which are officially recognized and which are employed solely with a view to assisting and transporting the wounded, sick and shipwrecked shall benefit by the same protection as the vessels described in Articles 19 and 20.

It is understood, however, that it is difficult to provide these vessels with distinguishing marks permitting recognition at a distance and that therefore they will operate under the risks and dangers arising from this difficulty.

**Article 21.** *Amdt. Italy.* 6.v.1949 . . . . . 73

Article 21 to be deleted and replaced by the following:

*"Hospital Ships, Hospital Ships of small tonnage, Relief Ships and Life-Boats belonging to Red Cross Societies, Neutral States and to Private Persons"*

"Hospital ships, and hospital ships utilized by National Red Cross Societies, by officially recognized Relief Societies, by any other humanitarian body or by private persons of neutral States, shall also be respected and exempt from capture on condition that:

- (1) A belligerent Power has given them an official commission with the consent of their own Government;
- (2) They are provided with a document certifying that they have been built or equipped specially and solely for assistance to sick, to wounded and to shipwrecked, and that the responsible Authorities have inspected such vessels on departure;
- (3) They have been notified according to the provisions of Article 19.

The coastal life-boats and craft utilized by officially recognized Societies or by private persons, shall benefit, on the same conditions, by the same protection, as far as possible, in so far as they can be seen and be identified."

**Article 25.** *Amdt. United Kingdom.* 23.IV.1949 . . . . . 74

Delete and substitute:

"The ships mentioned in Articles 19 and 20 shall afford relief and assistance to the wounded, sick and shipwrecked of the belligerents, whether military or civilian, without distinction of nationality.

The High Contracting Parties undertake not to use these ships for any military purpose and to ensure that they do not in any way hamper the movements of the combatants.

During and after an engagement or in the proximity of legitimate targets they act at their own risk."

**Article 26B.** *Amdt. Plen. Italy.* See Annex No. 77.

**Article 36.** *Amdt United States of America* 3.V.1949 . . . . . **75**

Paragraph 2: delete the words "painted white and bear" between the word "be" and the word "clearly" in this paragraph; and add the word "with" between the word "surfaces" and the words "the distinctive".

Paragraph 5: add after the first sentence of the paragraph the following sentence: "In the event of such landing, the aircraft with its occupants may continue its flight after examination, if any".

Paragraph 7: delete this paragraph.

**Article 40A.** *Amdt. United Kingdom.* 23.IV.1949 . . . . . **76**

Insert new Article (following Article 40) as follows:

"The distinguishing signs referred to in Article 40 can only be used, whether in time of peace or war, for protecting or indicating the ships therein mentioned, except as may be provided in any other international convention or by agreement between all the belligerents concerned".

**Article 40B** (or 26B). *Amdt. Plen. Italy.* 19.VII.1949 . . . . . **77**

I. The naval and air forces of the belligerents shall endeavour, in the circumstances and under the conditions specified in Article 26, to transmit their communications in such a way as to ensure that they are received.

II. The vessels and other craft referred to in Articles 19, 20 and 21 shall use the same means as those adopted by the belligerents for transmitting communications.

III. Any form of distress signal may be used by such vessels or craft, if they consider they are in danger, or threatened, or attacked.

Technical regulations, drafted and brought up to date by means of agreements between the Powers concerned, shall be annexed to the Convention for the purpose of determining and perfecting the means and procedure of transmission.

*Observations:*

I. The Maritime Warfare Convention does not include any rules for the transmission of orders, information, or distress signals between naval or air forces and hospital ships.

II. With a view to preventing abuses on the part of the belligerents arising from the lack of precision in the provisions of the Convention, it is suggested that definite standards should be established.

III. Transmitting and receiving apparatus on 600 meter wave length are not in use on all military aircraft; moreover in case of attack there would not always be time to use them.

IV. It has frequently occurred that optical signals by aircraft which might indicate boarding, change of course, the prohibition to enter an occupied port, signalling the presence of shipwrecked persons, or dangerous courses, have been misunderstood owing to the lack of proper instructions.

V. Hospital ships have frequently been attacked, in spite of wireless signals on 600 meter wave length intended to divert enemy aircraft.

VI. Attacks on hospital ships by submarines and torpedo aircraft could have been prevented by the use of rapid and unambiguous signals, such as distress signals.

VII. The use of modern long distance methods of communication might easily lead to unintentional breaches or to abuse on the part of hospital ships in the presence of the naval forces of the adverse belligerent.

VIII. The absence of all clear and definite provisions regulating the use of these means of communication might prevent the application of Article 26.

**Article 38/42/117/128.** *Text adopted by the Special Committee.* See Annex No. **48.**

**Articles 39-40/43-44/119/130.** *Amdt. Netherlands, Australia, Belgium, Brazil, United States of America, France, Italy, Norway, United Kingdom and Switzerland.* See Annex No. **49.**

**Articles 39-40/43-44/119/130.** *Correction by I.C.R.C.* See Annex No. **50.**

**Article 39/43/119<sup>1</sup>/130<sup>2</sup>.** *Amdt. Canada.* See Annex No. **8.**

**Article 39/43/119/130.** *Amdt. France.* See Annex No. **52.**

**Article 39/43/119/130.** *Text by the Special Committee.* See Annex No. **51.**

**Article 39/43/119/130.** *Amdt. Plen. Union of Soviet Socialist Republics.* See Annex No. **53.**

**Article 39/43/119/130.** *Amdt. Plen. U.S.S.R.* See Annex No. **53A.**

**Article 40/44/119A/130A.** *Amdt. Plen. U.S.S.R.* See Annex No. **50A.**

**Article 40/44/119<sup>2</sup>/130<sup>2</sup>.** *Amdt. Canada.* See Annex No. **8.**

**Article 40/44/119/130.** *Amdt. Denmark.* See Annex No. **54.**

**Article 40/44/119A/130A.** *Text adopted by the Special Committee.* See Annex No. **55.**

**Article 40A/44A/119B/130B.** *Text adopted by the Special Committee.* See Annex No. **56.**

**Article 51/54/129/130.** *Text adopted by the Special Committee.* See Annex No. **57.**

**Article 52/55/130/140.** *Text adopted by the Special Committee.* See Annex No. **58.**

**Extract of the Draft Report of Committee I to the Plenary Assembly for the Wounded and Sick and Maritime Conventions . . . . .**

78

Consideration should now be given to the procedure to be followed by a neutral Power with regard to the wounded, sick and shipwrecked who may reach its territory. In general, the Conventions stipulate that these persons shall become prisoners of war if they fall into enemy hands. A neutral Power should, therefore, by analogy, detain them. Several Articles do, in fact, make this stipulation. Whether they have arrived by land, or have been collected by a neutral ship or aircraft, or landed by a belligerent ship or aircraft in neutral territory, the rule is unchanged: they should be detained by the neutral State to prevent them from again taking part in military operations, unless a contrary arrangement has been concluded, as is always possible, with the belligerent States.

The question has hitherto been very simple, as previous Conventions concerned only members of the armed forces and other persons officially attached to the armies. It is true that the Xth Hague Convention of 1907 enumerated "sailors and soldiers on board ship" among protected persons, but the way in which this Article has been applied proves that the sailors which it refers to are the sailors of the naval forces.

The revised wording of the Wounded and Sick and the Maritime Warfare Conventions has extended protection to other categories, in particular to the sailors of the Merchant Navy. Even if the new Convention relative to the treatment of Prisoners of War were not ratified, these persons should be treated as prisoners of war under Articles 12, Wounded and Sick Convention, and 14, Maritime Warfare Convention. This ruling is in contradiction to the XIth Hague Convention, which stipulates in Chapter III, Article 6, that the crews of enemy merchant ships are not made prisoners of war, on condition that they do no longer take part in any activity connected with operations of war.

In view of these two contradictory texts, neutral Powers, as also belligerents, will be in a difficult position. It is true that the ruling which includes the sailors of the Merchant Navy among protected persons stipulates: "in so far as they do not enjoy more favourable treatment by virtue of other provisions of International Law". But this ruling in itself gives rise to discussion, as certain countries consider that the prisoner of war status is more privileged and in any case more clearly defined than the status granted by the XIth Hague Convention of 1907 and vice versa.

The Diplomatic Conference has not been instructed to revise any Hague Conventions other than the Xth. I consider, however, that it is its function to do all in its power to remove the anomalies which will be created by the introduction into International Law of the new provisions which it will adopt. I therefore venture to suggest that the Conference should recommend that Article 6, Chapter III, of the XIth Hague Convention, should be either deleted, or adapted to the provisions of the Wounded and Sick, the Maritime Warfare, and the Prisoners of War Conventions.

**Preamble. Amdt. Denmark. 14.VI.1949 . . . . . 79**

The High Contracting Parties,

on the light of the principles of the rights of man as accepted by the United Nations in their declaration of 6 December 1948,

desirous of restricting, as far as possible, the effects of war,

recognizing the principle laid down in the United Nations Charter to the effect that no use of force of arms shall be made except in the common interest,

declare that the rules contained in the present Convention shall be interpreted in such a way as to guarantee the maximum of protection to the victims of war,

that the cases not explicitly provided for in the Convention shall be dealt with as far as possible in conformity with the humanitarian principles on which it is based,

and have agreed . . . . .

**Preamble. Amdt. Netherland. 13.VII.1949 . . . . . 80**

“Respect for the personality and dignity of the human being is binding without contractual undertakings. The convictions of all people consider this principle as one of the foundations of every civilization.

By virtue of this principle, persons who are not directly engaged in the hostilities and those who have been withdrawn from hostilities, such as sick, wounded and prisoners, shall be respected, protected and cared for, regardless of race, nationality, religion, political opinions or any other circumstances.

Solemnly proclaiming their intention to respect the personality and dignity of the human being, the High Contracting Parties have agreed as follows:”

*Note.* — This text is similar to the one proposed by the Swiss Delegation (*See Annex No. 82*). In the first paragraph, however, the term “the convictions of” was substituted for the words “religions proclaimed his divine origine and . . .”.

In our opinion, the Draft submitted above could give offence to no one and is of such a nature to receive the support of all Parties.

**Preamble. Amdt. United Kingdom. 13.VII.1949 . . . . . 81**

(List of High Contracting Parties)

Inspired by the desire to do everything in their power to mitigate the sufferings inseparable from war;

Desiring also to perfect and complete the provisions of the Convention concluded at Geneva of the 27th July, 1929, relative to the treatment of prisoners of war;

Have resolved to conclude a new Convention for this purpose and have appointed, etc.

**Preamble. Amdt. Switzerland. 5.VII.1949 . . . . . 82**

“Respect for the personality and dignity of the human being without contractual undertakings. Religions proclaim his divine origin and all people consider this principle as one of the foundations of every civilization.

By virtue of this principle, persons who are not directly engaged in the hostilities and those who have been withdrawn from hostilities, such as sick, wounded and prisoners, shall be respected, protected and cared for, regardless of race, nationality, religion, political opinions or any other circumstances.

Solemnly proclaiming their intention to respect the personality and dignity of the human being, the High Contracting Parties have agreed as follows:”

**Preamble.** *Amdt. U.S.S.R. 1.VII.1949* . . . . .

The respect of the human person and of his dignity is a universal principle which is binding even in the absence of any contractual undertaking and all peoples consider it as a safeguard of civilization.

This principle demands that the sufferings brought on by war be attenuated; it demands that those who have been placed "hors de combat" as prisoners of war be protected against any injury to their life, be respected and protected, that those who suffer be succoured and tended without any distinction of race, of nationality, religion, political opinions or any other quality.

Solemnly affirming their will to adhere to this principle to prosecute and to punish severely the breaches of this principle, the High Contracting Parties have agreed to the following:

**Article 2/2/2/2.** Third paragraph. *Amdt. Belgium.* See Annex No. 9.

**Article 2/2/2/2.** Third paragraph. *Amdt. Canada.* See Annex No. 8.

**Article 2/2/2/2.** *Passage from "Remarks and Proposals" I.C.R.C.* See Annex No. 10.

**Article 2/2/2/2.** Fourth paragraph. *Amdt. Australia.* See Annex No. 11.

**Article 2/2/2/2.** Fourth paragraph. *Amdt. France.* See Annex No. 12.

**Article 2/2/2/2.** Fourth paragraph. *Amdt. France. To the second draft of the first Working Party*  
See Annex No. 13.

**Article 2/2/2/2.** *Text adopted by the Special Committee.* See Annex No. 14.

**Article 2A/2A/2A/2A.** *Amdt. Plen. U.S.S.R.* See Annex No. 15.

**Article 3.** *Amdt. Belgium. 17.V.1949* . . . . .

84

Delete number 6 of the 1st paragraph of Article 3 and substitute:

"(6) Persons belonging to a military organization or to an organized resistance movement constituted in an occupied territory to resist the occupying Power, on condition:

- (a) that the Government or the responsible Authorities which this organization acknowledges have notified the occupying Power through a means by which they are capable of being communicated with and of replying to communications, of its participation in the conflict and of the distinctive emblem which its members wear;
- (b) that the members of this organization are under the command of a responsible leader; that they wear at all times a fixed distinctive emblem, recognizable at a distance, that they carry arms openly; that they conform to the laws and customs of war, and in particular, that they treat nationals of the occupying Power who fall into their hands in accordance with the provisions of the present Convention."

**Article 3.** *Amdt. Denmark. 27.IV.1949* . . . . .

85

Add a new paragraph No. 7 after sub-paragraph *rb)* of category No. 6, reading thus:

"Civilians acting in lawful defence against unlawful acts, or who defend themselves against other aggressions on the part of belligerents, for instance in defending the lives,

health or living conditions of persons, or property, against enemy aggression, or who participate in the defence of their country against illegal aggression or occupation.

The legality of the acts in question is subject to the condition that the persons to which this paragraph refers shall not employ the means of injuring the enemy prohibited by Article 23 of the Convention respecting the Laws and Customs of War on Land of 1907, or otherwise to commit acts under conditions which would also entail a penal liability for the members of the armed forces.

Civilians who have committed acts which are not justified by the ruling of this paragraph may not in any case be sentenced to heavier penalties than those inflicted on military combatants for similar offences; they shall not be sentenced without judicial proceedings during which a counsel of their own nationality shall be placed at their disposal, or without a previous trial and reasons for the prosecution.

If, in such cases, the death penalty is pronounced, the sentence shall not be executed before the expiration of a period of at least six months from the date of receipt of the judgment by the Protecting Power entrusted with the safeguard of citizens or inhabitants of the State of which the accused is a national.

It is in particular strictly forbidden to submit such civilians to torture or to any other inhumane or humiliating measures.

After the close of hostilities they shall be freed and repatriated in the same manner as other prisoners of war."

**Article 3. Amdt. France. 26.IV.1949. . . . . 86**

The French Delegation proposes that Article 3, par. 2, sub-par. 1, should be the subject of a separate Article, to read as follows:

"The following persons shall be eligible for the treatment reserved to prisoners of war by the present Convention:

- (1) Officers and non-commissioned officers belonging or having belonged to the armed forces of the occupied country during the hostilities, who have been interned by the Occupying Power;
- (2) Prisoners of war, released by the Occupying Power who, after their release, have been re-interned by that Power."

**Article 3. Amdt. Netherlands. 19.V.1949. . . . . 87**

Insert a new paragraph after the second paragraph to read as follows:

"Persons who have been prisoners of war and who have been released unconditionally in their own country from internment, likewise members of an army that has capitulated and who have been sent home:

- (a) in the case of an unsuccessful attempt to join the armed forces to which they belong and which are still engaged in hostilities;
  - (b) in the case of a failure to answer a summons in view of renewed internment."
- (This will involve an amendment to Article 82 (3)).

**Article 3B. Amdt Netherlands. 23.V.1949. . . . . 88**

Delete the last paragraph of Article 3 and insert between Articles 3 and 4 a new Article reading thus:

"All persons fighting the enemy, who are not protected by Article 3A above or by the provisions of any other Convention and who fall into enemy hands shall be entitled in all circumstances to treatment in conformity with the provisions of the present Convention until such time as their status has been determined by the competent court which

will judge their case in accordance with the provisions of Section VI, Chapter III, relative to penal and disciplinary sanctions.

Even in cases where the decisions of the courts in regard to their status would not allow these persons to benefit under the present Convention, they shall nevertheless remain under the safeguard and rule of the principles of International Law as derived from the usages prevailing among civilized nations, of human rights and the requirements of public conscience, and they shall be entitled to treatment in conformity with the humanitarian principles of the present Convention."

**Article 3.** *Extract from the Memorandum by the Government of the United Kingdom* (Document No. 6)

89

*Proposed Conditions with which irregular combatants should comply to be eligible for the Protection of the Prisoners of War Convention.* (See Draft Convention relative to the treatment of Prisoners of War, Article 3, first paragraph, sub-paragraph 6).

1. The Convention should apply to members of partisan organizations only if they are captured by belligerents whilst operating against that belligerent in any territory which is:

- (a) part of the territory of another belligerent while active hostilities continue in another part of that territory;
- (b) territory of another belligerent when the latter continues active hostilities outside that territory;
- (c) territory of another belligerent when active hostilities with the former allies of that belligerent are continuing in or outside such territory even though that belligerent may itself have capitulated;
- (d) territory occupied by force but without the existence of a state of war.

2. Before being obliged to apply the Convention, a Party to it should:

- (a) have been informed of the distinctive sign to be worn;
- (b) have received a declaration of the existence of the partisan organization;
- (c) be satisfied that partisan headquarters have effective control of lower functions and units;
- (d) be satisfied that partisan headquarters are capable of being communicated with effectively and of replying to communications;
- (e) be satisfied that the partisan organization can and will comply with the rules of war and treat members of the armed forces of the Occupying Power captured by them in accordance with the Convention.

3. Partisans, individually and at all times whilst operating as "partisans" to satisfy the following conditions:

- (a) be commanded by a person responsible for his subordinates;
- (b) display a fixed distinctive sign recognizable at a distance and of which the Occupying Power has been previously informed (see 2 (a) above);
- (c) carry arms openly;
- (d) comply with the rules of war and treat members of armed forces of the Occupying Power captured by them in accordance with the Conventions.

**Article 3.** *Amdt. United Kingdom. 26.IV.1949* . . . . .

90

(1) Paragraph 1: (a) Delete the Preamble and substitute:

"The present Convention shall apply to persons who are captured by the enemy in the course of hostilities, or who are taken into custody by a belligerent because they are in the service of an adverse belligerent and:"

(2) (b) Delete Category 1 and substitute:

“(1) who, whether as combatants or non-combatants, are in the service of an adverse belligerent as members of the armed forces including militia or volunteer corps, fulfilling the following conditions:

- (I) that of being commanded by a person responsible for his subordinates;
- (II) that of wearing a fixed distinctive sign recognizable at a distance;
- (III) that of carrying arms openly;
- (IV) that of conducting their operations in accordance with the laws and customs of war;”

(3) (c) Add to Category 2 the words: “and who fulfil the conditions set out in subparagraphs (I), (II), (III) and (IV) of paragraph 1 of this Article.”

(4) (d) Delete Category 3 and substitute:

“(3) who follow the armed forces without directly belonging thereto.”

(If (new) Article 10A or other provision for identity cards for all not adopted, it will be necessary to add: “provided such persons hold an identity card issued by the military authorities of the armed forces which they follow”).”

(e) Delete Category 4.

5. Delete Category 6 and substitute:

“who, being members of partisan organizations, individually and at all times whilst operating as partisans, fulfil all the conditions set out in Category (I) and are captured by a belligerent:

(A) whilst operating against that belligerent in any territory which is:

- (a) part of the territory of another belligerent while active hostilities continue in another part of that territory;
- (b) territory of another belligerent when the latter continues active hostilities outside that territory;
- (c) territory of another belligerent when active hostilities with the former allies of that belligerent are continuing in or outside such territory even though that the belligerent may itself have capitulated;
- (d) territory occupied by force in which armed resistance to the Occupying Power has come into being at a time subsequent to such occupation;

(B) whilst operating as part of an organization :

- (a) which has formed the Occupying Power of the distinctive sign to be worn by its members;
- (b) which has declared its existence to the Occupying Power;
- (c) whose headquarters have effective control of lower formations and units;
- (d) whose headquarters are capable of being communicated with effectively and of replying to communications; and
- (e) which complies with the rules of war and treats members of the armed forces of the Occupying Power captured by them in accordance with the present Convention.”

6. Second Paragraph. (a) Insert new paragraph after paragraph 2 (1):

“personnel who have been prisoners of war and who have been released *unconditionally in their own country* from internment, likewise to members of an army that has capitulated and who have been sent home:

- (a) in the case of an unsuccessful attempt to join the armed forces to which they belong and which are still engaged in hostilities:

(b) in the case of a failure to answer a summons in view of renewed internment."  
(This will involve a consequential amendment to Article 82 (3).)

7. (b) Delete Category 2 (in view of proposed (new) Article 2B (*see next Annex*)).

8. Third paragraph. Delete.

9. New paragraph. Add new paragraph at end (see remarks on paragraph 1, Category 4):

"Members of the mercantile marine or of civil aircrews who are taken into custody by a belligerent because they are in the service of an adverse belligerent shall also be prisoners of war. Nevertheless, except in the case of civilian members of the crews of military aircraft, they shall, in all matters not dealt with specifically in this Convention, retain their full civil status."

**Article 3. Amdt. United Kingdom. 26.IV.1949. . . . . 91**

(2A to follow Article 2).

See preceding Annex amendment 7.

"With the exception of Articles 7, 9, 14 (1), 28 (5), 49-57, 116 and all provisions relating to Protecting Powers and without prejudice to any more favourable treatment which the neutral Power concerned may choose to give, the provisions of this Convention shall apply to any of the persons referred to in Article 3 whom a neutral Power is required under International Law to detain in its territory during a conflict. The belligerent in whose service the internees are shall be allowed to perform the functions of a Protecting Power in a belligerent territory under the Convention."

**Article 3. Amdt. United Kingdom to Amdt. Belgium. (See Annex No. 84) 7.V.1949 . . . . . 92**

Delete first paragraph of (6) of Article 3 and substitute:

"(6) Persons belonging to a military organization or to an organized resistance movement constituted in an occupied territory to resist the Occupying Power and which has effective command of its lower formations and units, on condition:

(a) that the Government or the responsible Authorities which the organization acknowledges have notified the Occupying Power through a means by which they are able to make and reply to communications, of its participation in the conflict and of the distinctive emblem which its members wear;"

**Article 3. Amdts. Plen. Ireland. 22.VII.1949 . . . . . 93**

*Amendment No. 1:* Second paragraph (B), cipher 2. After the word "and" insert "where diplomatic relations exist between the Parties to the conflict and the neutral or non-belligerent Power concerned",

*Amendment No. 2:* Second paragraph (B), cipher 2 last sentence: Delete the words "In this case" and substitute "Where diplomatic relations exist between the Parties to the conflict and the neutral or non-belligerent Power concerned",

*Explanatory Note:* The amendments are intended to make clear the intention that functions of a Protecting Power as provided by the Convention are conferred in relation to this category of prisoners of war only in cases where the Parties to the conflict have diplomatic relations with the neutral or non-belligerent Power concerned. It is understood that the phrase "diplomatic relations" in these amendments and this note includes consular relations.

	No.
<b>Articles 3, 3A, 4. Amdt. Netherlands. 3.VI.1949 . . . . .</b>	<b>94</b>

The Delegation of the Netherlands withdraw their amendment to Article 3 of 23 May and submit the following in lieu of it:

Delete the last paragraph of Article 3 and insert, between Articles 3 and 4, a new Article amending Article 4, as follows:

*Article 3A*

“Should any doubt arise whether persons resisting the enemy belong to any of the categories enumerated in Article 3A above, such persons shall enjoy the protection of the present Convention until such time as their status has been determined by the competent authorities.

Even in cases where the decision of the above-mentioned authorities would not allow these persons to benefit under the present Convention, they shall nevertheless remain under the safeguard and rule of the principles of International Law as derived from the usages prevailing among civilized nations, of human rights and the demands of the public conscience.”

*Article 4*

“The present Convention shall apply to persons belonging to the categories enumerated in Article 3A above from the time they fall into the power of the enemy and until their final release and repatriation.”

Delete the second paragraph of Article 4.

<b>Article 4. Amdt. Plen. Netherlands. 27.VII.1949. . . . .</b>	<b>95</b>
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Delete the second paragraph and replace by:

“Should any doubt arise whether persons having committed a belligerent act and having fallen into the hands of the enemy, belong to any of the categories enumerated in Article 3, such persons shall enjoy the protection of the present Convention until such time as their status has been determined by a military tribunal.”

*Note:* The Delegation of the Netherlands is of the opinion that decisions, which may have the gravest consequences for the persons concerned, should not be left to one person, but should be taken to a Court.

Such a decision could be taken in the course of a trial, as persons taking part in the fight, without the right to do so are liable to be prosecuted for murder, manslaughter, ill-treatment or attempt of these crimes, etc.

**Article 4/5/5/5. Text adopted by the Special Committee. See Annex No. 16.**

**Article 5/6/6/6. Passage from “Remarks and proposals” I.C.R.C. See Annex No. 17.**

**Article 5/6/6/6. Text presented to the XVIIth International Red Cross Conference. See Annex No. 18.**

**Article 6/7/7/7. Amdt. Canada. See Annex No. 8.**

**Article 6/7/7/7. Draft adopted by the Special Committee. See Annex No. 19.**

**Article 8/9/9/9. Extract of Memorandum United Kingdom. See Annex No. 20.**

**Article 8/9/9/9. Amdt. France. See Annex No. 21.**

Article 8/9/9/9. *Third paragraph. Amdt. France.* See Annex No. 22.

Article 8/9/9/9. *Amdt. United Kingdom.* See Annex No. 23.

Article 8/9/9/9. *Aide Memoire I.R.O.* See Annex No. 24.

Article 8/9/9/9. *Text adopted by the Special Committee.* See Annex No. 25.

Article 8/9/9/9. *Amdt. Plen. U.S.S.R.* See Annex No. 26.

Article 9/10/10/10. *Text adopted by the Special Committee.* See Annex No. 27.

Article 11. *Amdt. Canada. 13.V.1949.* (replaces amendment submitted during the fourth meeting of Committee II) . . . . .

96

Delete second paragraph and substitute:

“In cases of necessity prisoners of war may be transferred to a Power which is a Party to the Convention, provided that the transferring Power has made certain that the Power to whom the prisoners are to be transferred is capable of carrying out the provisions of the Convention. Responsibility for the application of the Convention shall then rest with the Power to whom the prisoners are transferred.”

Article 11. *Amdt. United Kingdom. 26.IV.1949* . . . . .

97

Paragraph 2: Delete second sentence and substitute the following one:

“If prisoners of war are transferred to a Power which is a Party to the present Convention the Detaining Power by whom the prisoners of war are transferred shall be relieved from the time transfer is completed, of its obligations under the present Convention towards such prisoners.”

Article 11. *Amdt. United Kingdom. 25.VI.1949.* . . . . .

98

Delete the last sentence of the second paragraph and insert two new paragraphs as follows:

“Prisoners of war may only be transferred by the Detaining Power to a Power which is a Party to the Convention and after the Detaining Power has satisfied itself of the willingness and ability of such transferee Power to apply the Convention. If prisoners of war are transferred under such circumstances, responsibility for the application of the Convention rests on the Power accepting them while they are in its custody.

Nevertheless if that Power fails to carry out the provisions of the Convention in any important respect the Power by whom the prisoners of war were transferred shall, upon being notified by the Protecting Power take effective measures to correct the situation or shall request the return of the prisoners of war. Such request must be complied with.”

Article 12. *Amdt. U.S.S.R. 4.V.1949* . . . . .

99

Replace the present text of Article 12 by the following:

The Contracting States undertake to consider as a serious crime any act endangering the life or health of prisoners of war.

No prisoner of war may be subjected to physical mutilation or to medical or scientific experiments of any kind.

Prisoners of war must at all times be humanely treated and protected, particularly against acts of violence and intimidation, against insults and public curiosity. Measures of reprisal against them are prohibited.

**Article 13<sup>a</sup>.** *Extract from the Memorandum by the Government of Finland (Document No. 9)* . . . **100**

The words following the semi-colon should be deleted. They are redundant and even dangerous, for they imply a restriction of the civil capacity conferred on prisoners of war at the beginning of the paragraph. The best solution might be to replace this clause by a provision similar to that laid down in Article 70 of the Draft Civilians Convention.

**Article 14A (New).** *Amdt. United Kingdom. 28.IV.1949* . . . . . **101**

“Derogations from the present Convention shall be permissible only:

- (a) where exceptions to the present Convention are rendered inevitable by the conditions of capture;
- (b) where exceptional circumstances arise which make it impossible, for the time being, to carry out in full all the provisions of the present Convention.

Nevertheless, these exceptions shall not infringe the fundamental principles of the present Convention, and shall cease from the time at which circumstances necessitating such exceptions are no longer in being.”

**Article 14B.** *Amdt. Plen. United Kingdom. 22.VII.1949* . . . . . **102**

“Temporary derogations from the present Convention shall be permissible only:

- (a) where exceptions to the present Convention are rendered inevitable by the conditions immediately following capture;
- (b) where exceptional conditions make it impossible for the time being to carry out in full all the the provisions of the present Convention.

These exceptions shall not infringe the fundamental principles of the present Convention; they shall be reported to the Protecting Power without delay, and shall cease as soon as the conditions necessitating such exceptions can be brought to an end.”

**Article 19.** *Amdt. Netherlands. II.V.1949* . . . . . **103**

In conformity with the principle laid down in Article 12 of the Hague Regulations (Annex to the 4th Convention of the Hague of 1907) it is proposed to add two new paragraphs worded as follows:

“Prisoners of war liberated on parole or engagement and recaptured, bearing arms against the Government to which they have pledged their honour, or against the allies of that Government, forfeit their right to be treated as prisoners of war until the end of their punishment.

“Prisoners of war liberated temporarily on parole, who fail to report back unintentionally do not lose the protection of the present Convention.”

**Article 19.** *First Amdt. United Kingdom. 26.IV.1949* . . . . . **104**

Delete the last three paragraphs (with a view to the insertion of a new Article relating to Parole—see proposal to follow Article 22).

	No.
<b>Article 19.</b> <i>Second Amendment United Kingdom. 26.IV.1949.</i> . . . . .	<b>105</b>

*New Article to precede Article 19 or to follow Article 22.*

Insert: new Article (see Article 19)

“Upon the outbreak of hostilities, each belligerent Power shall notify the opposing Power of the laws and regulations allowing or prohibiting its own nationals to accept liberty on parole or promise. Prisoners of war who are paroled or who have given their promise in conformity with the laws and regulations so notified, are bound on their personal honour scrupulously to fulfil, both towards the Power on which they depend and the Power which have captured them, the engagements of their paroles or promises. In such cases, the Power on which they depend is bound neither to require nor to accept from them any service incompatible with the parole or promise given.

A prisoner of war cannot be compelled to accept his liberty on parole or promise; similarly the hostile Government is not obliged to accede to the request of the prisoner of war to be set at liberty on giving his parole or promise.

Prisoners of war liberated on parole or promise and recaptured bearing arms against the Government to whom they have pledged their honour, or against the allies of that Government, forfeit their right to be treated as prisoners of war and can be brought before the Courts of the Detaining Power.”

**Article 19A.** *Amdt. United Kingdom.* See Annex No. **32**.

<b>Article 24<sup>1</sup>.</b> <i>Draft Article submitted by I.C.R.C. at the XVIIth International Red Cross Conference at Stockholm.</i> . . . . .	<b>106</b>
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“The food rations allotted to prisoners of war shall be at least equivalent to those of the Detaining Power’s own forces which are not engaged in military operations, unless such rations are manifestly superior to those issued to the army to which the prisoners belong. In the latter case, prisoners’ of war rations may be reduced without, however, falling below those of the said army. In any case, rations shall be adequate in quantity, quality and variety in order to ensure a normal state of health.”

**Article 24.** *Amdt. Kingdom.* See Annex No. **32**.

<b>Article 26.</b> <i>Amdt. Canada. 23.IV.1949.</i> . . . . .	<b>107</b>
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(1) Delete the first paragraph and substitute:

“Canteens shall be installed in all camps, where prisoners of war may procure food-stuffs, ordinary articles of daily use and soap. The Parties to the conflict may conclude special agreements whereby the parent Government may stock the canteen with goods, which cannot be obtained locally over and above the bare necessities. The prices shall not exceed local market prices. Profits shall be kept at a minimum.”

(2) Delete the first sentence of paragraph 2 and substitute:

“If any profits do accrue to the camp administration from the canteens these profits shall be used for the benefit of the prisoners; a special fund shall be created for this purpose.”

<b>Article 26.</b> <i>Amdt. United Kingdom. 2.V.1949</i> . . . . .	<b>108</b>
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Delete and substitute:

“In all camps canteens shall be installed at which prisoners of war shall be able to procure ordinary articles for everyday use. The tariff shall never be in excess of local

market prices. The profits accruing from canteens to the administration of the camps shall be used for the benefit of prisoners of war through the Camp Welfare Fund provided for in Article\*.

The canteens shall be managed by the camp leader subject to the control of the Camp Commandant."

**Article 28A.** *Amdt. United Kingdom.* See Annex No. 32.

**Articles 29A, 29B, 29C.** *Amdts. United Kingdom.* 20.VI.1949 . . . . . 109

(Alternative to Prisoners of War Convention Amendments in Annex No. 32.)

*Article 29A*

Prisoners of War shall have the attention preferably of medical personnel of the armed force in which they were serving at the time of capture.

*Article 29B*

Medical personnel who fall into the hands of an enemy power and who are retained shall carry out, under the authority of the Detaining Power, their medical duties in accordance with their professional ethics. They shall be allocated among the various camps, labour detachments and hospitals containing prisoners of war, preferably those belonging to the same force or speaking the same language, in order to meet their medical needs. They enjoy the necessary facilities including, when necessary, means of transport for moving about from one camp or labour detachment to another. They shall be authorized in particular to visit prisoners of war of the some forces under treatment in civil hospitals. They shall be granted additional rations as for working prisoners of war in paragraph 2 of Article 24 and shall also be granted additional opportunities for exercise and recreation including some freedom of movement in order to maintain mental and physical fitness for their particular duties.

*Article 29C*

Prisoners of war who are qualified as doctors, dentists, nurses or medical orderlies may be required by the Detaining Power to exercise their medical functions in the interests of prisoners of war from the same force. In that case they shall receive the same treatment as corresponding medical personnel retained by the Detaining Power. They shall be exempted from any other work under Article 41.

**Article 29B.** *Amdt. Netherlands.* 8.VII.1949 . . . . . 110

Replace Article 29B as adopted by the Special Committee of Committee II by the following text:

"Members of the medical personnel and chaplains while retained by the Detaining Power with a view to assist prisoners of war, shall not be considered as prisoners of war. They shall nevertheless benefit by all the advantages and the protection of the present Convention, and shall also be given all the necessary facilities to permit them to give medical care and religious assistance to prisoners of war.

They shall continue to exercise their medical and spiritual functions for the benefit of prisoners of war, preferably those belonging to the armed forces upon which they depend, within the scope of the military laws and regulations of the Detaining Power, and under the control of its competent services, in accordance with their professional etiquette. They shall also benefit by the following facilities in the exercise of their medical or spiritual functions:

\* See New Article 57 proposed by the United Kingdom.

- (a) They shall be authorized to visit periodically prisoners of war situated in working detachments or in hospitals outside the camp. The Detaining Power shall allow them the necessary means of transport for this purpose.
- (b) The senior medical officer in each camp shall be responsible to the camp military authorities for everything concerning the activities of retained military personnel. To this effect, belligerents shall agree at the outbreak of hostilities on the subject of the corresponding ranks of the medical personnel, including that of associations mentioned in Article 20 of the Convention of . . . for the relief of the wounded and sick in armed forces in the field. For all questions relative to their duties this senior medical officer, as well as chaplains, shall have direct access to the competent authorities of the camp. The latter shall afford them all the necessary facilities for correspondence relating to these questions.
- (c) Although it shall be submitted to the internal discipline of the camp in which it is retained, its personnel may not be compelled to carry out any work other than that concerned with its medical or religious duties.

During hostilities, the belligerents shall agree on the subject of the eventual relief of retained personnel and shall settle the procedure to be followed.

None of the preceding provisions shall relieve the Detaining Power of its obligations with regard to prisoners of war from the medical or spiritual point of view."

**Article 29B.** *Amdt. Plen. France, Holy See, Italy, Mexico, Netherlands and Portugal. 22.VII.1949* reproduces the preceding text.

**Article 30<sup>2</sup>.** *Text proposed by I.C.R.C., "Remarks and Proposals", p. 47. . . . . 111*

"For that purpose, the Detaining Power shall ensure their equitable allocation amongst the various camps and labour detachments; if their numbers are insufficient they shall be allowed all facilities for moving from one camp or detachment to another."

**Article 30.** *Amdt. United Kingdom. See Annex No. 32.*

**Article 30.** *Amdt. Holy See. 9.V.1949. . . . . 112*

New drafting of the Article.

Add:

*Art. 30. — Religious Duties*

Prisoners of war shall enjoy complete liberty in the exercise of their religious duties, including attendance at the services of their faith, on condition that they comply with the measures of order prescribed by the military authorities.

*Art. 30A. — Retained Chaplains*

Chaplains who fall into the hands of the enemy Power and who remain or are retained to minister to prisoners of war shall be allocated among the various camps and labour detachments containing prisoners of war belonging to the same forces or speaking the same language (or practising the same religion). They shall enjoy all facilities, including the means of transport for moving about from one camp or labour detachment to another. They shall in particular be authorized to visit prisoners of war under treatment in civilian hospitals. Ministers of religion shall be at liberty to correspond on matters concerning their ministry with the ecclesiastical authorities in the country of detention.

*Art. 30B. — Prisoners of War Ministers of Religion*

Prisoners of war who are ministers of religion, without having officiated as chaplains to their own forces, shall be at liberty, whatever their denomination, to minister freely to the members of their community. To this effect, they shall receive the same treatment, insofar as it may be necessary, as the chaplains retained by the Detaining Power. They shall not be obliged to work.

*Art. 30C. — Lack of Ministers of a certain Faith*

When a prisoner has not the assistance of a retained chaplain or prisoner of war minister of his faith, the Detaining Power and the local ecclesiastical authority shall designate a minister of the prisoner's denomination or, if such a course is feasible from a sectarian point of view, a minister of a similar denomination or a qualified layman.

**Article 30A.** *Amdt. United Kingdom.* See Annex No. 32.

**Article 30.** *Amdts. United Kingdom to Amdts. Holy See.* (See Annex 112) . . . . . 113

*Article 30A*

Add to Article 30A as amendment at the Meeting of the Special Committee on 27th May 1949:

“They shall be granted additional rations as for working prisoners of war in paragraph 2 of Article 24, and they shall also be granted additional opportunities for exercise and recreation including some freedom of movement in order to maintain mental and physical fitness for their particular duties.”

*Article 30B*

Line 5: delete “in so far as it may be necessary”.

Line 7: after “Detaining Power” insert “during the period they are carrying out their religious duties. Whilst doing so...”.

*Article 30C*

Delete all words after “faith” in line 2 and substitute:

“subject to the approval of the Detaining Power any minister of religion of the prisoner's denomination or, if such a course is feasible from a sectarian point of view, a minister of a similar denomination or a qualified layman, shall be allowed to minister to such a prisoner, provided the said minister conforms to any regulations which the Detaining Power may consider necessary in the interest of discipline and military security.”

*Note:* These amendments are proposed for the purpose of settling the substance of the provisions being put in the Conventions and are without prejudice to the amendments proposed by the United Kingdom (see Annex No. 32).

**Article 30A.** *Text prepared for the Plenary Assembly by the Working Party appointed to make Article 30A consistent with Article 29B, as revised and adopted* . . . . . 114

Chaplains who fall into the hands of the enemy Power and who remain or are retained with a view to assisting prisoners of war, shall be allowed to minister to them and to exercise freely their ministry amongst prisoners of war of the same religion, in accordance with their religious conscience. They shall be allocated among the various camps and labour detachments containing prisoners of war belonging to the same forces, speaking the same language or practising the same religion. They shall enjoy the necessary facilities, including the means of transport provided for in Article 29B, for visiting the prisoners of war

outside their camp. They shall be free to correspond, subject to censorship, on matters concerning their religious duties with the ecclesiastical authorities in the country of detention and with the international religious organizations. Letters and cards which they may send shall be in addition to the quota provided for in Article 60.

**Article 42.** *Amdt. Denmark. 24.VI.1949* . . . . . **115**

A new paragraph to be inserted between the first and second paragraph in the Stockholm text:

“Work connected with the removal of mines or similar devices, dangerous to the population because of their position, and placed by the prisoners themselves before they have been taken, or by other members of the forces to which they belonged, shall however exceptionally be authorized, on condition that it is carried out in areas distant from the theatre of military operations and under conditions defined in the following Article, provided that the prisoners or other members of the forces named above have training or experience in the removal of mines.”

**Article 42.** *Text submitted by the International Committee of the Red Cross to the XVIIth International Red Cross Conference at Stockholm and reintroduced by the United Kingdom Delegation in an amendment dated 2.V.1949* . . . . . **115**

Delete Article and substitute:

“Besides work done in connection with camp administration, installation or maintenance, prisoners of war may only be obliged to do work included in the following classes of economic activity:

- (a) Industries connected with production, extraction of raw material or manufacture, with the exception of iron and steel, machinery and chemical industries and of public works and building which have a military character or purpose.
- (b) Transport and handling of stores having neither military character nor purpose.
- (c) Commercial business, and arts and crafts.
- (d) Domestic service.
- (e) Public utility services having no military character or purpose. Work connected with the removal of mines or similar devices placed by the prisoners themselves before they have been taken, or by other members of the forces to which they belonged, shall however be authorized, on condition that it is carried out in areas distant from the theatre of military operations and under conditions defined in the following Article.

Should the above provisions be infringed, prisoners of war shall be allowed to exercise their right of complaint, in conformity with Article 68.

**Article 42.** *Text adopted by the Special Committee and submitted to Committee II. 28.VI.1949* **117**

*Authorized Work*

Besides work done in connection with camp administration, installation or maintenance, prisoners of war may only be employed on work included in the following classes:

- (a) Agriculture.
- (b) Industries connected with production, extraction of raw material or manufacture, with the exception of iron and steel, machinery and chemical industries and of public works and building which have a military character or purpose.
- (c) Transport and handling of stores having neither military character nor purpose.

- (d) Commercial business, and arts and crafts.
- (e) Domestic service.
- (f) Public utility services having no military character or purpose.

Should the above mentioned provisions be infringed, prisoners of war shall be allowed to exercise their right of complaint, in conformity with Article 68.

**Articles 42, 43.** *Amdts. Plen. Afghanistan, Australia, Belgium, Canada, United States of America, Holy See, Ireland, Italy, Mexico, Netherlands, Pakistan, Portugal, Spain, Switzerland and Venezuela.* 18.VII.1949. . . . .

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On 5 July 1949, Committee II adopted by a small majority an amendment to Article 42, proposed by the Delegation of Denmark, granting to a Detaining Power the right to compel prisoners of war to remove mines or similar devices. This decision is a reversal of what, for many years, has been a custom of war, as expressed by Article 29 of the 1929 Prisoners of War Convention, which states:

“It is forbidden to employ prisoners of war on unhealthy and dangerous work.”

Because of the adoption of this reversal of principle it was necessary, for coordination purposes, that Committee II suggested the amending of Article 43 which at that time specifically stated that it is forbidden to employ prisoners of war on dangerous work. A conditional phrase has now been added to Article 43 which in effect means that mine-lifting is dangerous work, but, prisoners of war may be employed on such work.

It is a well-known fact that mine-lifting causes more tragic deaths than any task undertaken by members of the armed forces and that this work is undertaken only by a few especially trained technicians. Yet these Articles, as they now read, give a Detaining Power the right to force prisoners of war, in numbers not specified, who may have training and experience, considered as adequate by the Detaining Power, to carry out this task. Even if the best possible equipment and training were given many prisoners of war will be killed. This is tantamount to placing in the Prisoners of War Convention a provision whereby a Detaining Power may legally cause the death of prisoners of war.

The inclusion of the right to compel prisoners of war to lift mines, is considered a complete denial of the humanitarian principles upon which the Convention for the Protection of Prisoners of War is founded. The sponsors of these amendments feel that all Nations represented at this Diplomatic Conference must agree that if members of the armed forces in enemy hands are to receive the full protection desired, the second paragraph of Article 42 must be deleted and Article 43 amended to stress that mine-lifting is prohibited, as detailed hereunder:

*Article 42 — Authorized Work*

Amendment: delete the second paragraph.

*Article 43 — Dangerous and Humiliating Work*

Amendment No. 1: delete the first paragraph and substitute:

“No prisoner of war may be employed on labour which is of an unhealthy or dangerous nature.”

Amendment No. 2: add a new third paragraph:

“The removal of mines or similar devices shall be considered as dangerous labour.”

**Articles 49 to 57B.** *Amdt. United Kingdom.* 23.V.1949. . . . .

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*Article 49. — Advances of Pay*

1. The Detaining Power shall make advances of pay to all prisoners of war in the currency of the country in which the prisoners of war are detained, at the equivalent of the following monthly rates:

- Grade 1 All prisoners of war below the rank of sergeant or the equivalent—8 Swiss *paper* francs.
- Grade 2 All prisoners of war of the rank of sergeant or above or of equivalent status, who do not hold commissioned rank as officers or an equivalent status—12 Swiss *paper* francs.
- Grade 3 All officers below the rank of major or of equivalent rank or status, including warrant officers who are treated as commissioned officers in their own forces—50 Swiss *paper* francs.
- Grade 4 All officers of the rank of major, lieutenant-colonel, or colonel or of equivalent rank or status—60 Swiss *paper* francs.
- Grade 5 All general officers and officers holding the rank or appointment of brigadier—75 Swiss *paper* francs.

2. The rate of exchange to be used for converting the amounts stated above into the currency of the country in which the prisoners are detained shall be the current rate of exchange. The amount to be paid monthly shall be the nearest convenient sum below the amount in the equivalent of the currency of the country in which they are detained, and these amounts shall be paid by the Detaining Power to the prisoners of war or credited to their accounts without any deductions in respect of the cost of their maintenance.

3. It shall be open to any two belligerent Powers mutually to agree to vary the amounts for the members of their own forces in the hands of the adverse belligerent.

*Article 50 (new). — Supplementary Pay* . . . . . **120**

The Detaining Power shall accept from, and at the request of, the Power in whose forces prisoners of war were serving when captured, sums for distribution among such prisoners as supplementary pay, provided always that the sums to be paid shall be the same for each prisoner of war of the same rank and shall be payable to all prisoners of that rank belonging to the forces of the Power concerned. At the earliest opportunity after receipt, the Detaining Power shall place such sums at the disposal of the prisoners of war concerned, by credit to the accounts held on their behalf by the Detaining Power. In no circumstances may any part of such supplementary pay be withheld by the Detaining Power for any reasons whatsoever (see also Article 57A).

*Article 51. Amdt. Canada.* See Annex No. **131**.

*Article 51. — Eligibility for Working Pay.* . . . . . **121**

1. Prisoners of war shall not receive working pay for work in connection with the administration, internal arrangements and maintenance of camps, except in the following circumstances:

- (a) where prisoners are regularly employed on work which is primarily for the benefit of the Detaining Power;
- (b) where prisoners of war are regularly employed on work for the benefit of their fellow prisoners and there is no sum available for such purposes in the Camp Welfare Fund constituted in accordance with Article 57.

2. In particular, prisoners of war shall not be entitled to receive working pay from the Detaining Power when employed casually on camp duties, or when employed by the Detaining Power on duties corresponding to those which they would normally have performed in the forces of the Power in whose forces they were serving at the time they were captured.

3. In all cases where prisoners of war are employed on work in connection with the administration, internal arrangements and maintenance of camps, or where they are employed for the benefit of their fellow prisoners of war, they may be paid working pay

from the Camp Welfare Fund established under Article 57 at the discretion of the prisoners' representative in that camp and provided that the amounts so paid are approved by the Camp Commandant.

*Article 52. — Rates and Payment of Working Pay . . . . .* **122**

1. The Detaining Power shall determine the rates of working pay to be paid to prisoners of war employed on work for which the Detaining Power is required to pay them under Article 51. In no case shall a rate of working pay be less than the equivalent in the currency of the Detaining Power of one quarter of a Swiss *paper* franc a day at the current rate of exchange.

2. As soon as the Detaining Power has determined a rate of working pay it shall notify that rate to the Protecting Power and inform the latter at the same time of the nature of the work for which that rate of working pay is to be paid.

3. Wherever prisoners of war are employed directly under the Detaining Power or on loan to private firms or individuals, the Detaining Power shall be entirely responsible for the payment to them of the working pay earned by them either directly in local currency or by crediting the amounts due to their accounts. In no circumstances will payment to a prisoner of war in respect of work be a matter for private firms or individuals to settle with the prisoner of war concerned.

*Article 53. — Prisoners of War Accounts . . . . .* **123**

1. The Detaining Power shall maintain for each prisoner of war in the camp where he is detained an account which shall show:

- (a) any sums in the currency of the Detaining Power surrendered by him under Article 16;
- (b) any sums surrendered by him under Article 16 and changed at his request, into the currency of the Detaining Power;
- (c) all sums issuable to him as advances of pay under Article 49;
- (d) all sums of working pay earned by him under Article 51 and not issued to him currently: the prisoner or the camp leader on his behalf, shall give a receipt for working pay issued to him currently;
- (e) all sums of supplementary pay issuable to him under Article 50;
- (f) all sums sent or becoming payable to him from any other source;
- (g) all payments made to him or on his behalf;
- (h) all sums transferred at his request to payee to the country in whose service he is, under the provisions of Article 55.

Each entry in his account shall be initialled by the prisoner of war concerned, or by the prisoner's camp leader on his behalf.

2. The account of a prisoner of war shall be open to inspection by him or by any representative of the Protecting Power visiting the camp.

3. When a prisoner of war is transferred to another camp, his account shall be sent with him or shall follow him as soon as possible after his transfer.

4. When a prisoner of war is transferred from one Detaining Power to another, any credit balance due to him from the transferring Detaining Power shall be dealt with as provided in Article 56 regarding credit balances at the end of captivity, unless it shall otherwise be agreed between the belligerents concerned.

*Article 54. — Ready money; expenditure and transfer of funds within same country . . . . .* **124**

1. The Detaining Power may make regulations determining the amount of money which a prisoner of war may have in his possession at any time.

2. The Detaining Power may likewise, by regulation, lay down the conditions under which a prisoner of war may be allowed to make purchases from firms or persons outside the camp.

3. The Detaining Power should, wherever desired by prisoners of war, facilitate the transfer within the same country of amounts from their credit balances to prisoners of war from the forces of the same Power in other camps or to the Camp Welfare Fund of the prisoners' own camp or of any other camp controlled by that Detaining Power.

*Article 55. — Remittances.* . . . . . 125

1. When a prisoner of war desires that a payment be made in his own country from any credit balance he has with the Detaining Power, the Detaining Power shall prepare a statement giving the following particulars necessary to identify the prisoner of war; i.e. number, rank, surname and christian names, the name and address of the payee in his own country to whom he desires payment to be made and the amount to be so paid in the currency of the country in which he is detained. This authority shall be signed by the prisoner of war, or by his witnessed mark if he cannot write, and shall be counter-signed by the camp leader in that camp, and by the Camp Commandant who shall add a certificate that the prisoner of war concerned has a credit balance of not less than the amount registered to be paid.

2. The authorities for payment may be made up in lists, each sheet of such lists being witnessed by the camp leader and certified by the Camp Commandant.

3. The authority shall then be forwarded to the Protecting Power for transmission to the Power in whose forces the prisoner of war concerned was serving at the time of his capture.

*Article 56. — Repatriation or death* . . . . . 126

1. On the termination of captivity by the release of a prisoner of war or on his repatriation, the Detaining Power shall give to him a statement, signed by an authorized officer of that Power, showing the credit balance with the Detaining Power due to that prisoner at the end of captivity. The Detaining Power shall send through the Protecting Power to the Government in whose forces the prisoner of war was serving when captured, lists showing the particulars of all prisoners of war whose captivity has been terminated by repatriation, release, escape, death or any other means, and showing the amount of their credit balances. Such lists shall be certified on each sheet, by an authorized representative of the Detaining Power.

2. The Power in whose service the prisoner of war is, shall be responsible for settlement with that prisoner of war in respect of any credit balance due to him from the Detaining Power on the termination of his captivity.

*Article 57. — Camp Welfare Fund* . . . . . 127

1. The Detaining Power shall maintain for each camp a Camp Welfare Fund Account to which shall be credited any profits accruing from the prisoners of war canteen, and any other sums contributed from whatever source for the welfare of prisoners of war.

2. The Detaining Power may transfer surplus funds from a Camp Welfare Fund or from a closed camp to a Central Welfare Fund for prisoners of war from the same forces, and may apply such Central Welfare Fund for the welfare of any other prisoners of war in the service of the same Power.

3. Any credit balance remaining in the Central Welfare Fund after the termination of captivity of all the prisoners of war from the forces concerned shall remain at the disposal of the Detaining Power, in the absence of any agreement to the contrary between the interested Powers.

*Article 57A. — Compensation . . . . .*

1. Any claim by a prisoner of war for compensation in respect of any injury or other disability arising out of work, shall be referred to the Power in whose service he is, through the Protecting Power. The Detaining Power will, in all cases, provide the prisoner of war concerned with a statement showing the nature of the injury or disability, the circumstances in which it arose and particulars of medical or hospital treatment given for it. Such statement shall be signed by a responsible officer of the Detaining Power and the medical particulars shall be certified by a medical officer. A copy of the statement will be forwarded to the Power in whose service he is, through the Central Agency for Prisoners of War provided for in Article 113.

2. Any claim from a prisoner of war for compensation in respect of personal effects, monies or valuables impounded by the Detaining Power under Article 16 and not forthcoming on his repatriation, or in respect of loss alleged to be due to the fault of the Detaining Power or any of its servants shall likewise be referred to the Power in whose service he is. The Detaining Power will, in all cases, provide the prisoner of war with a statement showing all available information regarding the circumstances in which such effects, monies or valuables are not forthcoming signed by a responsible officer. A copy of such statement shall be forwarded to the Power in whose service he is through the Central Agency for Prisoners of War provided for in Article 113.

*Article 57B. — Adjustments between belligerents . . . . .* 129

Advances of pay to prisoners of war under Article 49 will be regarded as having been made on behalf of the Power in whose forces they were serving at the time of capture. Any adjustment in respect of such advances; remittances under Article 55; payments in respect of credit balances due to prisoners of war on the termination of captivity; and payments in respect of claim for compensation for disabilities or lost personal effects shall be taken into consideration in any financial settlement between the belligerents concerned.

**Articles 49 to 57A.** *With reference to United Kingdom amendments the following tables may be of assistance in comparing the Stockholm text with the United Kingdom proposals . . . . .* 130

<i>Stockholm Text</i>	<i>U. K. Proposal</i>	<i>U. K. Proposal</i>	<i>Stockholm Text</i>
49(1)	54(1)	49(1)	51(1)
	53(1) (a), (b)	49(2)	—
	16(4)	49(3)	51(3)
49(2)	54(2)	50	51(4)
	53(1) (g)	51	52(2), (3)
50(1)	53(1) (a)	52	52(1)
50(2)	53(1) (b)	53	54 and 55
51(1)	49(1)	54(1)	49(1)
51(3)	49(3)	54(2)	49(2) and 53(2)
51(4)	50	54(3)	53(2)
52(1)	52	55	53(3)
52(2), (3)	51	56	56
53(2)	54(2), (3)	57	26(2) and (3)
53(3)	55		
54 and 55	53	57A	45(2)
56	56	57B	57
57	57B		

**Article 51. Amdt. Canada. 23.IV.1949. . . . . 131**

(1) Delete its entirety and substitute:

“The Detaining Power shall grant all prisoners of war a monthly credit, the amount of which shall be fixed by conversion, into the currency of the said Power, of the following amounts:

- Category I Below sergeants (or prisoners of war of equivalent rank)—15 Swiss gold francs.
- Category II All others not holding a commission (or prisoners of equivalent rank—25 Swiss gold francs.
- Category III Commissioned officers (or prisoners of war of equivalent rank)—50 Swiss gold francs.

The Swiss gold franc aforesaid is the franc containing . . . milligrammes of gold.

Belligerent may, by special agreements, change the amount of the credit due to prisoners of war in the above categories.

The Detaining Power shall at all times accept remittances of money that the Power on which the prisoners depend may forward to them as additional credits through the Protecting Power, on condition that all prisoners belonging to the same category receive the same amount of credit.”

**Article 58. Extract from the Remarks of the Greek Delegation (document No. 11, distributed by the Federal Political Department) . . . . . 132**

The following wording would perhaps be better.

“Immediately on the outbreak of hostilities belligerents shall publish the measures to be taken for implementing the provisions of the present Section and shall bring them to the notice of prisoners, as soon as any fall into their hands, as also to the notice of the Protecting Power. Any subsequent modifications shall also be notified.”

This wording, in which account is taken of the old Article 35, is preferable. Notification of conditions of treatment should be made prior to capture of prisoners, as it is impossible to foresee when capture will take place.

**Article 60. Amdt. United Kingdom. 4.V.1949 . . . . . 133**

Paragraph 1. Delete second sentence.

Delete third sentence, and substitute:

“Where a Detaining Power requests adverse belligerents to restrict mail addressed to prisoners of war in order to prevent congestion in its postal machinery, the adverse belligerents shall take all possible steps to apply necessary restrictions where they are satisfied that to do so is in the interests of the prisoners of war.”

Fourth sentence: Delete “must be conveyed by the most rapid means; they”.

Paragraph 2. Delete (with a view to embodying in (new) Article 60A).

Paragraph 4. Delete.

**Article 60A (new). Amdt. United Kingdom. 4.V.1949. . . . . 134**

“Prisoners of war who have been without news for a long period, or who are unable to have news from their next of kin or to give them news by the ordinary postal route, further-

more, those who are separated from home by great distances, shall be permitted to send telegrams, the fee being charged against the prisoner's of war account with the Detaining Power. They shall likewise benefit by this measure in cases of recognized urgency."

**Article 61. Amdt. United Kingdom. 4.V.1949 . . . . . 135**

1. Paragraph 1, at the end of the first sentence, delete (with a view to embodying in Article 63): "and articles of a devotional, educational and recreational character which may meet their needs."

2. Paragraph 2. Delete and substitute: "The Detaining Power shall not restrict the quantity which may be received and held by p/w collectively or individually, unless the consent of the Protecting Power be given to such restriction. In the absence of a Protecting Power or a substitute under Article 9, the consent of the I.C.R.C. shall be necessary."

3. Insert as a new paragraph after paragraph 2 the text of Article 2 of Annex III.

4. Paragraph 3. Delete first sentence.

5. Insert new paragraph as follows:

"Collective relief shall be carried out in accordance with the provisions of Annex III to this Convention."

**Article 63. Amdt. United Kingdom. 4.V.1949 . . . . . 136**

Delete and substitute:

"Subject to any censorship regarded as necessary by the Detaining Power under Article 66, prisoners of war shall be allowed to receive, by post or by other means, individual or collective consignments of books, examination papers, church vestments and articles of devotion, scientific equipment, musical instruments, sports outfits material and any other articles required for the purpose of religious study or recreation."

**Article 63. Amdt. United Kingdom. See Annex No. 136.**

**Article 64. Amdt. Australia. 17.VI.1949 . . . . . 137**

*Second paragraph.*

Amend the wording of the second paragraph to read as follows:

"All mails, relief shipments (including parcels) sent by parcel post, and authorized remittances of money addressed to prisoners of war or dispatched by them through the post office, either direct or through the information bureau provided for in Article 112 and the Central Prisoners of War Agency provided for in Article 113, shall be exempt from any postal dues, both in the countries of origin and destination, and in all intermediate countries."

*Third paragraph.*

Amend the wording of the third paragraph to read as follows:

"Relief shipments intended for prisoners of war and which, by reason of their weight or any other cause, cannot be sent through the post office, shall benefit by free road, rail and maritime conveyance in all the territory under the control of the Detaining Power. Such shipments shall likewise benefit by free road, rail and maritime conveyance in the territories of the Powers Parties to the Convention."

**Article 64. Amdt. Belgium. 17.V.1949 . . . . . 138**

Amend the wording of *paragraphs 1 and 2* as follows:

„All shipments of relief for prisoners of war shall be exempt from *import, customs and other dues or taxes arising from importation.*

Correspondence, relief shipments and authorized remittances of money addressed to prisoners of war or dispatched by them through the post office, either direct or through the Information Bureau provided for in Article 112 and the Central Prisoners of War Agency provided for in Article 113, *shall be exempt from postal dues, in international postal traffic, in accordance with the provisions of the Universal Postal Convention and the arrangements of the Universal Postal Union. Countries that are not party to certain of these arrangements shall grant exemption from postal charges under the same conditions.*”

**Article 64. Amdt. Canada. 4.V.1949 . . . . . 139**

1. Substitute the following for the second paragraph:

“As provided in Article 52 of the Universal Postal Convention signed at Paris on July 5, 1947, correspondence intended for Prisoners of War or despatched by them shall be exempt from all postal charges, not only in the countries of origin and destination, but in intermediate countries. The same privilege is accorded to correspondence concerning prisoners of war despatched or received, either directly by, or through the agency of, the Central Information Agency provided for in Article 113 or the Information Bureaux provided for in Article 112.”

2. As a footnote quote:

*Extract from Universal Postal Convention, signed at Paris, July 5, 1947.*

**Article 65. Amdt. United Kingdom. 4.V.1949. . . . . 140**

(1) Paragraph 1 — Add at end: “where they can do so without serious prejudice to the operation of the war”.

(2) Paragraph 2(b) Insert after “Protecting Powers” the word “and”.  
Delete words “any other body assisting the prisoners of war”.

(3) Insert new paragraph between paragraphs 2 and 3.

“These provisions are not intended to detract from the right of any belligerent to arrange other means of transport if it should so prefer; nor to preclude the grant of safe conduct, under mutually agreed conditions, to such means of transport.”

(4) Delete last paragraph.

**Article 69. Amdt. United States of America. 2.V.1949 . . . . . 141**

Add the following paragraph: “A small number of officer prisoners shall be stationed in labor camps for enlisted men for the purpose of acting as spokesmen and performing other camp administration. Senior officers prisoners of war should be consulted concerning the officers so detailed. Where such officers prisoners of war are stationed in labour camps for enlisted men, the assistants to the spokesmen shall be chosen from the enlisted men in accordance with Sec. 1 above.”

**Article 70. Amdt. Italy. 17.V.1949 . . . . . 142**

Insert a new paragraph worded as follows:

“Spokesmen shall not be held responsible, simply by reason of their functions, for any offences committed by prisoners of war which entail disciplinary or penal sanctions.”

Articles 72 to 88, 90 to 99. *Amdts. United Kingdom. 29/30.V.1949**Article 72. — I. Applicable Legislation. . . . . 143**Law in force in the Armed Forces of the Detaining Power*

(Article Stockholm 72<sup>1, 2, 3</sup>) Subject to the limitations prescribed by this chapter, a prisoner of war shall be liable to the laws, regulations and orders in force in the armed forces of the Detaining Power and the Detaining Power shall be justified in taking judicial or disciplinary measures in respect of any offence committed by a prisoner of war against such laws, regulations or orders.

(Former Article 73) If any law, regulation or order of the Detaining Power shall declare to be punishable an act committed by a prisoner of war, which act would not be punishable if committed by a member of the forces of the Detaining Power, such act shall be dealt with by disciplinary measures and entail disciplinary punishment only.

*Article 73. — II. Decision on disciplinary or judicial proceedings . . . . . 144*

(Article Stockholm 83<sup>2</sup>). In deciding whether proceedings in respect of an offence alleged to have been committed by a prisoner of war shall be judicial or disciplinary, the Detaining Power shall ensure that the competent authorities exercise the greatest leniency and adopt wherever possible disciplinary rather than judicial measures.

*Article 74. — Courts . . . . . 145*

(Article Stockholm 75). A prisoner of war shall be tried only by a military court, unless the existing laws of the Detaining Power expressly permit the civil courts to try a member of the armed forces of the Detaining Power in respect of the particular offence alleged to have been committed by the prisoner of war.

In no circumstances whatever shall a prisoner of war be tried by a court which does not offer the essential guarantees of independence and impartiality generally recognized, and the procedure of which does not afford the accused the rights and means of defence provided for in Article 95.

*Article 75. — Offences committed before Capture . . . . . 146*

(Article Stockholm 74). Prisoners of war prosecuted under the laws of the Detaining Power for acts committed prior to capture shall enjoy, even if convicted, the benefits of the present Convention.

*Article 76. — Non bis in idem . . . . . 147*

(Article Stockholm 76). No prisoner of war may be sentenced or punished more than once for the same act or on the same charge.

The punishment inflicted at the first trial shall not in any case be increased as a result of an appeal or a similar procedure.

*Article 77. — Penalties . . . . . 148*

(Article Stockholm 77). A prisoner of war may not be sentenced by the military authorities or courts of the Detaining Power to a penalty which is not applicable to a member of the armed forces of the Detaining Power in respect of the commission of a similar act.

When fixing the penalty the military authorities and courts of the Detaining Power shall take into consideration to the widest extent possible the duty which a prisoner of war owes to the country in whose service he was at the time of capture, and the fact that the accused is not a national of the Detaining Power.

(The said courts and authorities shall be at liberty to reduce any penalty provided for the offence of which the prisoner of war is accused and shall, therefore, not be bound to apply any minimum penalty prescribed.)

Collective punishment for individual acts, corporal punishments, imprisonment in premises without daylight and in general any form of torture or cruelty are forbidden. No prisoner of war may be deprived of his rank by the Detaining Power or prevented from wearing his badges.

*Article 78. — Execution of Punishment . . . . . 149*

(Article Stockholm 78). Officers, non-commissioned officers and men, who are prisoners of war undergoing a disciplinary or judicial punishment, shall not be subjected to less favourable treatment than that applied in respect of the same punishment to prisoners of equivalent ranks in the armed forces of the Detaining Power.

Prisoners of war who have served disciplinary or judicial sentences may not be treated differently from other prisoners of war.

*Article 78A. — Nature and Execution of Punishment in the Case of Women . . . . . 150*

(New Article). A woman prisoner of war shall not be awarded or sentenced to a punishment more severe, or treated whilst undergoing punishment more severely, than a woman member of the armed forces of the Detaining Power dealt with in respect of a similar offence.

In no case may a woman prisoner of war be awarded or sentenced to a punishment more severe, or treated whilst undergoing punishment more severely, than a male member of the armed forces of the Detaining Power.

*Article 79. — Amdt. Pakistan. See Annex No. 171.*

*Article 79. — Competent Authorities and Procedure . . . . . 151*

(Article Stockholm 85<sup>1</sup>). Acts which constitute offences against discipline shall be investigated immediately.

(Article Stockholm 86<sup>1</sup>). Without prejudice to the competence of the courts and of the superior military authorities, a disciplinary punishment may only be awarded by a responsible officer vested with disciplinary powers.

(New). In no case may such powers be delegated to or exercised by a prisoner of war.

(Article Stockholm 86<sup>2</sup>). The decision shall be made in the presence of the accused prisoner of war and of the camp leader. The accused prisoner of war shall be given the opportunity to defend himself and he shall be able to call witnesses and to have the assistance of an interpreter. The accused prisoner of war shall also be given, before the hearing, a statement in writing of the charge preferred against him.

(New). A record of disciplinary punishments shall be maintained by the camp commandant and shall be open to inspection by representatives of the Protecting Power.

*Article 80. — Confinement Awaiting Hearing (Régime) . . . . . 152*

(Article Stockholm 85). A prisoner of war accused of an offence against discipline shall not be kept in confinement pending the hearing unless a member of the armed forces of the Detaining Power would be so kept if he was accused of a similar offence or if it is essential in the interests of camp order and discipline.

(Article Stockholm 85<sup>2</sup>). Any period spent by a prisoner of war in confinement awaiting the disposal of an offence against discipline shall be reduced to an absolute minimum and shall not exceed 14 days.

(New). A prisoner of war awaiting the disposal of an offence against discipline shall not be deprived of any benefit of this Convention or treated differently from other prisoners of war with the exception that if he is confined any provisions of privileges which are inapplicable by reason of the mere fact of his confinement may be withheld.

(Article Stockholm 85<sup>3</sup>). The provisions of Articles 88 and 89 of this chapter shall apply to prisoners of war who are in confinement awaiting the disposal of offences against discipline.

<i>Article 81. — Nature of Punishment . . . . .</i>	No. <b>153</b>
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(Stockholm Article 79). The disciplinary punishments applicable to prisoners of war are the following:

- (1) A fine which shall not exceed 50 % of the pay which the prisoner of war would otherwise receive under the provisions of Article 51 during a period of not more than 30 days.
- (2) A fine which shall not exceed 50 % of the working pay which the prisoner of war would otherwise receive under the provisions of Article 52 for a working period of not more than 30 days.
- (3) Discontinuance of privileges granted over and above the treatment provided for by the present Convention.
- (4) Fatigues not to exceed two hours daily.
- (5) Confinement.

The punishment referred to under (4) above shall not be applied to officers.

In no case shall disciplinary punishments be inhuman, brutal or dangerous to the health of prisoners of war.

<i>Article 82. — Duration and Reduction of Punishments . . . . .</i>	<b>154</b>
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(Stockholm Article 80). The duration of any single punishment awarded shall in no case exceed 30 days. Any period of confinement awaiting the hearing of a disciplinary offence or the award of disciplinary punishment shall be deducted from an award pronounced against a prisoner of war.

(Article 85<sup>2</sup>). The maximum of 30 days provided above may not be exceeded, even if the prisoner of war is answerable for several acts at the time when he is awarded punishment, whether such acts are related or not.

(Article Stockholm 87). The period between the pronouncing of an award of disciplinary punishment and its execution shall not exceed one month.

If a prisoner of war is awarded a further disciplinary punishment, a period of at least three days shall elapse between the execution of any two of the punishments, if the duration of one of these is ten days or more.

<i>Article 83. — Escapes. — I. Successful Escape . . . . .</i>	<b>155</b>
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Take over existing text of Article 81 of Stockholm.

<i>Article 84. — Escapes. — II. Unsuccessful Escape. . . . .</i>	<b>156</b>
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(Article Stockholm 82). A prisoner of war who attempts to escape but is recaptured before having made good his escape in the sense of Article 81 shall be liable only to a disciplinary punishment in respect of this act even if it is a repeated offence.

(Article Stockholm 85<sup>1</sup>). A prisoner of war who is recaptured shall be handed over without delay to the competent military authority.

<i>Article 85. — Escapes — III. Connected Offences . . . . .</i>	<b>157</b>
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(Article Stockholm 83<sup>1</sup>). Escape or attempt to escape, even if it is a repeated offence, shall not be deemed an aggravating circumstance if the prisoner of war is subjected to trial by judicial proceedings in respect of an offence committed during his escape or attempt to escape.

(Article Stockholm 83<sup>3</sup>). In particular and in conformity with the principle stated in Article 73, a prisoner of war who, in the course of an escape or attempt to escape, commits offences, such as offences against persons not accompanied by serious violence, offences against property, theft, the drawing up or use of false papers, of the wearing of civilian clothing, and provided he commits such offences solely with the intention of facilitating escape, shall in general receive disciplinary punishment only.

(Article Stockholm 84<sup>3</sup>). After an escape, or attempt to escape, the fellow prisoner who aided and abetted the offender shall be liable on this count to disciplinary punishment only.

No.

*Article 86.* . . . . . **158**

Take over existing text of Article 84 of Stockholm.

*Article 87. — I. Place of Disciplinary Punishment* . . . . . **159**

(Article Stockholm 88). A prisoner of war undergoing confinement as a disciplinary punishment shall continue to enjoy the provisions of this Convention except in so far as these are necessarily rendered inapplicable by the mere fact that he is confined.

(Article Stockholm 88<sup>1</sup>). A prisoner of war shall not in any case be transferred to a penitentiary establishment, (e.g. a prison, penitentiary, convict prison, etc.) to undergo a disciplinary punishment therein.

(Article Stockholm 88<sup>2</sup>). All premises in which disciplinary punishments are undergone shall conform to sanitary requirements; they shall in particular be provided with adequate bedding. A prisoner of war undergoing punishment shall be enabled to keep himself in a state of cleanliness.

(New). A woman prisoner of war undergoing disciplinary punishment shall be confined in separate quarters from men and shall be under the immediate supervision of a woman.

*Article 88. — III. Treatment* . . . . . **160**

(Article Stockholm 88<sup>3</sup>). A prisoner of war awarded disciplinary punishment may not be deprived of the prerogatives attached to his rank. In particular an officer or prisoner of war of equivalent status shall not be lodged in the same quarters as a non-commissioned officer or man.

(Article Stockholm 89<sup>1</sup>). A prisoner of war awarded disciplinary punishment shall be allowed to exercise and stay in the open air at least two hours daily.

(Article Stockholm 89<sup>2</sup>). He shall be allowed on his request to be present at the daily medical inspection. He shall receive the attention which his state of health requires and if necessary he shall be removed to the camp infirmary or to a hospital.

(Article Stockholm 89<sup>3</sup>). He shall have permission to read and write, likewise to send and receive letters. Parcels sent to him shall be handed direct to the camp leader who shall hand over to the infirmary or the camp kitchen all perishable food contained in them and shall hold the non-perishable contents for delivery to him on the expiry of his punishment.

(Article Stockholm 89<sup>4</sup>). No prisoner of war awarded a disciplinary punishment may be deprived of the provisions of Articles 68 or 116 of the Convention.

*Article 90. — General Principles* . . . . . **161**

(Stockholm Article 90). No prisoner of war may be tried or sentenced for an act which is not forbidden by the law of the Detaining Power in force at the time the said act was committed.

No moral or physical coercion may be exerted on a prisoner of war in order to induce him to admit himself guilty of the act of which he is accused.

No prisoner of war may be convicted without having had an opportunity to present his defence with the assistance of a qualified lawyer.

*Article 91. — Notification of Proceedings* . . . . . **162**

(Article Stockholm 94). In any case in which the Detaining Power has decided to institute judicial proceedings against a prisoner of war, it shall notify the Protecting Power as soon as possible and at least three weeks before the date of trial. This period of three weeks shall run as from the day on which this notification reaches the Protecting Power at the address previously indicated by the latter to the Detaining Power.

The said notification shall be in writing and contain the following information:

- (1) Surname and first names, rank, army or personal number, date of birth and profession or trade, if any, of the prisoner of war;
- (2) Place of internment or confinement;
- (3) Specification of the charge or charges preferred, giving the legal provisions applicable;
- (4) Designation of the court which will try the case, likewise the date and place fixed for the opening of the trial.

(Article Stockholm 95<sup>4</sup>). This notification shall also be given by the Detaining Power to the prisoner of war who is accused and to his camp leader, together with any other documents required to be communicated to an accused member of its own armed forces by virtue of the laws, regulations or orders of the Detaining Power. The notification and other documents thus communicated shall be in a language which is understood by the prisoner of war and his camp leader.

(Article Stockholm 94<sup>4</sup>). No judicial proceedings against a prisoner of war may be pursued unless at the opening of the trial evidence is submitted to the court that the notification specified in the present Article were received by the Protecting Power, by the prisoner of war and by his camp leader at least three weeks prior to the opening of the trial.

*Article 92. — Confinement awaiting Trial (Deduction, Regime) . . . . . 163*

(Article Stockholm 93 new). Judicial investigations relating to a prisoner of war shall be conducted as rapidly as circumstances permit and so that his trial shall take place as soon as possible. Nevertheless a prisoner of war shall not be tried in circumstances where a fair trial is impracticable owing to his inability to call witnesses on his own behalf, more especially in respect of an offence which he is alleged to have committed before capture.

(New). A prisoner of war shall not be confined while awaiting trial unless a member of the armed forces of the Detaining Power would be so confined if he was accused of a similar offence, or if it is essential to do so in the interests of national security. In no circumstances shall this confinement exceed three months, save where it is impracticable to bring the prisoner of war to trial for the reasons stated in paragraph 1. Any period spent by a prisoner of war in confinement awaiting trial shall be deducted from any sentence of imprisonment passed upon him and taken into account in fixing any penalty.

(New). Whilst awaiting trial a prisoner of war shall not be deprived of any benefit of this Convention or treated differently from other prisoners of war, save only that if he is confined any provisions of privileges which are inapplicable, by reason of the mere fact of his confinement, may be withheld.

(Article Stockholm 93<sup>2</sup>). The provisions of Articles 88 and 89 of this chapter shall apply to a prisoner of war whilst in confinement awaiting trial.

*Article 93. — Rights and Means of Defence . . . . . 164*

(Article Stockholm 95). A prisoner of war put on trial shall be entitled to assistance by one of his prisoner comrades, to defence by a qualified lawyer of his choice and, if he deems necessary, to the services of a competent interpreter and to the calling of witnesses. He shall be advised of these rights as soon as possible after the alleged offence and in any case not later than the date of notification prescribed by Article 92.

Failing a choice by the prisoner of war, the Protecting Power shall be bound to provide a lawyer for his defence and shall have at least one week at its disposal for the purpose. The Detaining Power shall, at the request of the Protecting Power, provide that Power with a list of persons qualified to present the defence.

Any defence lawyer chosen by the Protecting Power or by the prisoner of war shall have at his disposal a period of two weeks at least before the opening of the trial, as well as the necessary facilities to prepare the defence of the accused. He may, in particular, freely visit the accused, interview him in private, likewise any witnesses for the defence, including prisoners of war. He shall have the benefit of these facilities until the term of appeal or petition has expired.

(New). The cost of defence shall be charged to the Power in whose service the prisoner of war is; where a prisoner of war has to meet a serious charge and that Power has no longer an effective Government, or where, in exceptional cases, effective communication with that Power cannot be established, the Detaining Power shall meet the necessary cost of the defence of that prisoner of war by a qualified lawyer.

The representatives of the Protecting Power shall be entitled to attend the trial unless this is, exceptionally, held *in camera* in the interest of State security. In such a case the Detaining Power shall advise the Protecting Power accordingly.

*Article 94. — Conditions for Validity of Proceedings . . . . .* **165**

(Article Stockholm 92 new). No court shall proceed to try a prisoner of war unless at the opening evidence is given establishing that all the requirements of the two preceding Articles have been complied with.

(Article Stockholm 92). A sentence cannot be validly passed upon a prisoner of war unless it has been pronounced by the same courts and according to the same procedure as in the case of members of the armed forces of the Detaining Power, and unless furthermore the provisions of the present chapter have been observed.

*Article 95. — Amdt. Netherland. See Annex No. 172.*

*Article 95. — Notification of Judgment . . . . .* **166**

(Article Stockholm 96). Any judgment or sentence passed upon a prisoner of war shall be immediately reported to the Protecting Power in the form of a summary communication.

(New). If any judgment or sentence passed upon a prisoner of war is not pronounced in his presence and that of the camp leader, this notification shall likewise be sent to them in a language which they understand.

(New). The result of any appeal or petition shall be likewise notified.

If, as a result of any judgment or sentence passed upon a prisoner of war, he is condemned to any penalty, the Detaining Power shall, in addition and as soon as possible, address to the Protecting Power a detailed communication containing:

- (i) the effect and the full reasons adduced for the judgment or sentence passed;
- (ii) a summarized report of the proceedings, emphasizing in particular the arguments of the defence;
- (iii) an indication, where applicable, of the establishment where any sentence will be served.

The communications provided for in this Article shall be sent to the Protecting Power at the address previously communicated to the Detaining Power.

*Article 96 . . . . .* **167**

(Article Stockholm 97). Any prisoner of war on whom a judicial sentence has been passed shall have a right to appeal or a right to petition against his conviction or sentence, with a view to the quashing of the sentence or the reopening of the trial and in the same manner as a member of the armed forces of the Detaining Power.

(New). Immediately a prisoner of war notifies the Detaining Power that he wishes to appeal or to petition against his conviction or sentence, the Protecting Power and the camp leader shall be informed thereof, sufficient particulars being given to enable them to identify the prisoner of war and the proceedings and sentence against which he desires to appeal or petition. They shall also be informed of the manner in which such appeal or petition will be determined and of the date of any hearing.

(New). If the method of determining appeals permits of the hearing of oral evidence or argument, the representative of the Protecting Power shall have the right to be present at the hearing in accordance with the provisions of Article 93. The provisions with regard to the choice by the prisoner of war or Protecting Power of a defence lawyer and the payment of his services prescribed by Article 93 shall also apply.

(New). No appeal shall be rejected unless the prisoner of war has had an opportunity to submit his case, either orally or in writing as may be appropriate, to the permitted method of determining appeals or until after the Protecting Power and camp leader have been notified of the date and place of hearing and given the opportunity prescribed above to attend at any hearing.

(New). Before the hearing of any appeal the court shall satisfy itself that the provisions of this Article have been complied with.

*Article 97. — Death Penalties . . . . .* **168**

(Article Stockholm 91). The Detaining Power shall notify all prisoners of war as soon as possible after capture of all those offences to which, according to its laws, regulations or orders, capital punishment can apply. A similar notification shall be made to the Protecting Power as soon as it assumes its functions.

Other offences shall not thereafter be made punishable by the death penalty without the concurrence of the Power in whose service the prisoner of war was at the time of capture.

No death sentence can be pronounced against a prisoner of war unless the attention of the court has been specifically called to the matters specified under Article 77 prescribing the attitude to be adopted in fixing any penalty for an offence committed by a prisoner of war.

*Article 98. — Execution of Penalties . . . . .* **169**

(Article Stockholm 98) *I. Period of time allowed in case of the Death Penalty*

If a death penalty is pronounced against a prisoner of war the sentence shall not be executed before expiration of a period of six months at least from the date of receipt by the Protecting Power at the address fixed of the detailed communication provided for in Article 95.

*Article 99. — Imprisonment (Establishment and Régime) . . . . .* **170**

(Article Stockholm 99). A sentence of imprisonment pronounced against a prisoner of war after a valid conviction in accordance with the provisions of this Chapter shall be served in the same establishments and under the same conditions as in the case of members of the armed forces of the Detaining Power. These conditions shall, in all cases, conform to the requirements of health and humanity.

(New). A woman prisoner of war against whom such a sentence has been pronounced shall be confined in separate quarters and shall be under the supervision of women.

(Article Stockholm 99<sup>2</sup>). A prisoner of war sentenced to imprisonment shall retain the benefits of the provisions of Articles 68 and 116 of the present Convention. Furthermore he shall be entitled to receive at least one relief parcel monthly, to take regular exercise in the open air for a period of at least 2 hours daily, and to have the medical care which his state of health may require and, on request, to be visited by a minister of his own religious faith at reasonable intervals.

**Article 79. Amdt. Pakistan. II.VI.1949 . . . . .** **171**

*These punishments are applicable to non commissioned-officers and other ranks.*

(1) Warning.

(2) Fine.

The total sum of all punishments during one month is not to exceed one quarter of the month's allowance and that of one month's wages.

(3) Forfeiture of privilege.

(a) Receipt of letters. Forfeiture of privilege not to exceed a fortnight in one month.

(b) Despatch of letters. Forfeiture of privilege not to exceed a fortnight in one month.

(c) Visit to canteen. Forfeiture of privilege not to exceed seven days in one month.

(d)

(e)

- (4) Fatigue.  
 Maximum period limited to 10 days in one month not more than two hours a day, subject to medical examination re. fitness.  
 (This punishment is not applicable to officers.)
- (5) Confinement in Cell.  
 Maximum period not to exceed 10 days in one month.  
 (See Footnote to 5.)
- (6) Women Prisoners.  
 (a) Same punishment as in the case of men, except fatigue, which should be according to the suitability to the sex.  
 (b) Expectant mothers and mothers with children under five years to receive no punishment.

The Camp Commandant is authorized to combine the following punishments only if he finds a prisoner of war is guilty of repeated acts of indiscipline:

- (i) 10 days cell and  $\frac{1}{4}$  of month's allowance and wages.  
 (Article 79, fifth and second paragraphs.)
- (ii) 10 days cell and forfeiture of receipt or despatch of letters for 14 days.  
 (Article 79, fifth and third paragraphs.)
- (iii) Forfeiture of despatch of letters for 14 days and forfeiture of receipt of letters for 14 days.  
 [Article 79, third paragraph, (a) and (b).]

*Footnote to 5.*

- (a) A cell should have: —
- (i) Minimum capacity of 1200 cubic feet (19' × 10').
  - (ii) Good ventilation.
  - (iii) Heating arrangements in cold climate.  
Cooling arrangements in hot climate.
  - (iv) Sanitary arrangements.
  - (v) Sufficient provision of water for drinking and for washing purposes.
- (b) Minimum furniture requirements:
- (i) A bed.
  - (ii) A chair.
  - (iii) A table.
  - (iv) Light strong enough for reading purposes.
- (c) Method of confinement.  
 We are opposed to what is known as "solidarity confinement". We recommend:
- (i) That the prisoner should be neither out of sight, nor of hearing of other prisoners.
  - (ii) To have two hours out for exercise and fresh air.
  - (iii) To have meals with open doors or outside the cell in view of the other prisoners confined in the same block.
  - (iv) He is to work inside the cell.
- This gives him a total of 20 hours inside the cell out of 24 hours.
- (d) In order to strengthen the hands of the administration the Camp Commandant is to be authorized to detain the following classes of prisoners in the cell block, e.g.
- Those who are leaders and are creating trouble.
  - Those who have attempted to escape several times.
  - Those who are guilty of violence.
  - Those who committed thefts.

They can be kept there until such a time as there is an assurance that they will behave.

They will sleep in the cell, but will work outside the cell during the day; or if they prefer inside, the doors are to be kept open.

This will ensure better supervision and control and at the same time segregation from the main body of the prisoners.

**Article 95.** *Amdt. Netherlands. 5.V.1949.* . . . . . **172**

Paragraph (3) Replace the words "The defence counsel chosen by the Protecting Power or by the prisoner of war" by the words "The defence counsel of the prisoner of war".

The last sentence of this paragraph to be worded as follows: "He shall have the benefit of these facilities until the term of appeal, or revision has expired".

Paragraph (4) Add the following second sentence: "The same communication in the same circumstances shall be made to the defence counsel for the prisoner of war".

**Article 99A.** *Amdt. United Kingdom.* See Annex No. **32.**

**Article 100.** *Note. Head Office of International Railway Transport.* See Annex No. **35.**

**Article 107.** *Recommendation. Committee of Medical Experts. I.VI.1949* . . . . . **173**

Delete "active".

At the meeting to which the Committee had invited two former members of Mixed Medical Commissions, Professeur K. M. WALTHARD and Dr. A. d'ERLACH, this question was debated at length. In the opinion of both these highly experienced physicians, difficulties of interpretation might arise—as they arose during the last war—in connection with the third paragraph of the General Observations of Annex I, which runs as follows:

"Injuries and diseases which existed before the war and which have not become worse, likewise war injuries which have not prevented subsequent military service, shall not entitle to direct repatriation"

as opposed to Article 107. Where Annex I speaks of "military service", Article 107 speaks of "active military service". The term "military service" seems more appropriate; it covers all forms of military service: active, administrative, auxiliary, etc., in other words, any activity which may directly assist a belligerent in its war effort. After a lively discussion, the Committee came to the conclusion that the term "military service" in the broad sense it has in Annex I should also be adopted in Article 107, firstly to avoid any divergence between the two texts, and secondly to prevent prisoners of war taking up after their repatriation any kind of military service whatsoever.

**Article 108<sup>4</sup>.** *Apportionment of costs for repatriation of prisoners of war.* Draft submitted by the International Committee of the Red Cross, as desired by the Stockholm Conference, to replace the present fourth paragraph. . . . . **174**

The costs of the repatriation of prisoners of war shall in all cases be equitably apportioned between the Detaining Power and the Power on which such prisoners of war depend. In apportioning these costs, the following principles shall be observed:

(a) Where the territories of the two Powers are adjacent to each other, the Power on which the prisoners of war depend shall bear the costs of their repatriation as from the frontier of the Detaining Power;

- (b) Where the territories of the two Powers are not adjacent,
- (1) the costs of repatriation shall be borne by the Power on which the prisoners of war depend, provided that the latter have been taken prisoner in the territory of the Detaining Power;
  - (2) in other cases, the Detaining Power shall assume the costs of transport of prisoners of war within its territory, and the costs which would be occasioned by their transport, in conditions to those laid down in Article 38, and by the shortest route, from its frontier to the area in which they were taken prisoner. The remaining costs of repatriation shall be borne by the Power on which the prisoners of war depend.

**Article 108.** *Amdt. United Kingdom. 28.v.1949* . . . . . **175**

(1) Add to paragraph 1: "unless there are adequate reasons to delay repatriation such as the serious consequences which might ensue owing to the military or economic conditions in the country to which the prisoners are repatriable."

(2) Add to paragraph 3: "Where repatriation is delayed the reasons for such delay shall be explained to the prisoners concerned, and sent in writing to the Protecting Power and to the International Red Cross Committee."

(3) For last sentence of paragraph 4 substitute: "In other cases the Parties concerned shall agree on the apportionment of the costs of repatriation."

**Article 109.** *New Amdt. United Kingdom. 4.vi.1949* . . . . . **176**

(New texts in place of those given in the Summary Records of the Fifteenth Meeting of Committee III and Seventeenth Meeting of the Special Committee of Committee II.)

*New Article 109B*

"On repatriation, any articles of value impounded from prisoners of war under Article 16, and any foreign currency which has not been converted into the Detaining Power's currency, shall be restored to them."

"Any articles of value impounded under Article 16, or monies in currencies other than that of the Detaining Power in the possession of a prisoner of war, which for any reason whatever, do not accompany the said prisoners of war on repatriation, shall be despatched to the Information Bureau set up under Article 112."

*New Article 109C*

"Prisoners of war shall be authorized to take away with them, on repatriation, personal effects not exceeding 25 kilograms in weight."

"Other personal effects left behind by a prisoner of war on repatriation shall only be sent after him if he makes the necessary arrangements for transport, export licences, payment of customs duties, etc."

**Article 110.** *Amdt. United Kingdom. 2.v.1949* . . . . . **177**

Delete Article and substitute Articles 110 and 110B:

*Article 110. — Deaths and Burials*

1. In the event of the death of a prisoner of war, the Detaining Power shall ensure that the burial or cremation is preceded by a careful and, if possible, medical examination of the body, with a view to confirming death, and where necessary establishing identity.

2. It shall further ensure that the body is honourably interred, if possible, according to the rites of the religion to which the dead person belonged, and that the grave is respected

and maintained and marked so that it may always be found. Wherever possible, deceased prisoners of war who were in the service of the same belligerent shall be interred in the same place. Deceased prisoners of war will be interred in individual graves, except where special circumstances make the use of a collective grave necessary.

3. In order that graves may always be found, and in order to render eventual exhumation possible, and to ensure the identification of a body whatever may be the subsequent site of the grave, all particulars of burials and graves of prisoners of war shall be recorded with the Graves Registration Service established in accordance with Article 13 of the Wounded and Sick Convention. Any belligerent who is a Party to the present Convention but not to the Wounded and Sick Convention shall establish a Graves Registration Service to maintain records of the burials and graves of prisoners of war who die whilst in the power of that belligerent.

4. On the termination of hostilities, or by mutual agreement from time to time before that date, lists of graves and particulars of the prisoners of war interred in cemeteries and elsewhere shall be transmitted to the Power in whose service such prisoners of war were, through the Prisoners of War Information Bureau to be established in accordance with Article 112B.

5. If the belligerent concerned ceases to control the territory in which are graves containing bodies found by him on the battlefield or of prisoners of war who have died in this captivity, responsibility for the care of these graves and of records of any subsequent moves of the bodies shall rest on the Power controlling that territory if a Party to the Convention. The Power originally responsible should, however, transmit to the successor Power, as soon as convenient, a list of such graves showing their location and particulars of the persons buried in them.

*Article 110B. — Cremations*

1. Bodies shall not be cremated except for imperative reasons of hygiene, or for religious motives and only if the requirements of Article 110 particularly regarding medical examination, are satisfied, in so far as they are applicable. Should cremation be carried out, the reasons for doing so will be stated in the death certificate, or on the certified list reporting the death of the deceased prisoner.

5. Particulars of all cremations will be recorded by the Graves Registration Service referred to in Article 110 above, which will be responsible for the custody of the ashes until wishes are made known by the Power in whose service the deceased prisoners was, regarding their ultimate disposal.

**Article 112. Amdt. United Kingdom. 2.v.1949 . . . . . 178**

Delete Article and substitute Article 112-112B.

*Article 112. — Recording of Information*

(1) The Detaining Power shall ascertain from each prisoner of war, as soon as possible after capture and in any case not later than one week after he reaches a prisoner of war camp, and shall record, the following information:

- (a) name, rank and nationality or service;
- (b) Army or personal number;
- (c) first name or names;
- (d) surname;
- (e) date of birth;
- (f) first name of father and maiden name of mother;
- (g) any other particulars shown on his identity disc or card.

- (2) In addition the Detaining Power shall record in respect of each prisoner of war:
- (a) the place and date of his capture;
  - (b) the place at which he is interned; and, in the case of transfer from one place of internment to another, the dates of departure and of arrival;
  - (c) the date and circumstances of any release, whether on parole or otherwise, of re-internment, repatriation, escape, recapture after escape, admission to and discharge from hospital, and the beginning and end of any period of imprisonment;
  - (d) particulars of any wounds, injuries or illnesses;
  - (e) in the event of death:
    - (i) the date and place of death
    - (ii) the date and place of burial and what religious rites, if any, were performed;
    - (iii) if the body was cremated, the reasons for so doing;
    - (iv) particulars necessary to identify the grave.

(3) If a Detaining Power finds itself unable to record in respect of prisoners of war as a whole any of the information set out in the preceding paragraph, it shall inform, through the intermediary of the Protecting Power, the Power in whose service such prisoners are, and the latter shall then be freed of any obligation to record similar information regarding prisoners of war in its power, who are in the service of the first mentioned Detaining Power.

(4) Belligerents shall be at liberty to agree mutually to record any other information regarding prisoners of war which they consider desirable.

(5) The Detaining Power shall take all necessary steps to ensure that all information referred to in this Article is forwarded, without delay, to the Prisoners of War Information Bureau set up in accordance with Article 112B.

*Article 112A. — Establishment of Prisoners of War Information Bureau*

(1) At the commencement of hostilities, and in all cases of occupation each of the Parties to the conflict shall set up an official Prisoners of War Information Bureau to provide information regarding prisoners of war which come into its hands. The Power concerned shall ensure that the Prisoners of War Information Bureau is provided with necessary accommodation, equipment and staff to ensure its efficient working. It shall be at liberty to employ prisoners of war in such a Bureau under conditions laid down in Articles..... (dealing with work by prisoners of war).

*Article 112B. — Duties of Prisoners of War Information Bureau*

(1) The Prisoners of War Information Bureau set up under Article 112B shall be charged with the following duties:

- (a) to receive from the appropriate authorities all information about prisoners of war in the hands of the Power concerned, and in particular the information to be recorded in accordance with Article 112 and the address to which communications for the prisoner should be sent;
- (b) to transmit all available information regarding prisoners of war, through the intermediary of the Protecting Power or by any other channel which may be mutually agreed, to the Power in whose service they are, and also to the Central Agency established in accordance with Article 113.
- (c) similarly to transmit regularly, and if possible once a week, information of the state of health of prisoners of war who are seriously ill or seriously wounded;
- (d) to transmit, through the same channels, death certificates, or lists certified by a responsible officer, of all persons in the service of an adverse belligerent who die as pri-

soners of war or whose bodies come into the hands of the Detaining Power; death certificates or certified lists of dead shall show:

- (i) particulars of identity as set out in Article 112, paragraph 2, or if any of these are not available, any other information which might assist in identification of the deceased person by the Power in those service he was;
  - (ii) the date and place of death;
  - (iii) the cause of death;
  - (iv) date and place of burial;
  - (v) particulars necessary to identify the grave;
- (e) to reply to all enquiries from an adverse belligerent, the Protecting Power or the Central Agency established under Article 113 regarding any prisoners of war or deceased person belonging to the service of an adverse belligerent, and to make any necessary enquiries to provide information asked for which is not in the possession of the Bureau;
- (f) to take all reasonable steps to collect from the authorities concerned, wills or other documents of importance to the next of kin, any articles of personal value, sums in currencies other than that of the Detaining Power, belonging to deceased prisoners of war or persons whose bodies come into the hands of the Detaining Power, and transmit the same to the Power in whose service the deceased persons were, in packets sealed by the Bureau. Such packets shall be accompanied by statements showing clearly full identity particulars of the person to whom each article etc. belonged; in cases where unidentified articles are recovered, e.g. from a battlefield, the statement should show when and where the articles were found and any other information which might assist the adverse belligerent to identify their owners;
- (g) to collect and transmit similarly articles belonging to prisoners of war who did not, for any reason take them with them on repatriation, release or successful escape. Other personal effects of such prisoners of war will be transmitted under arrangements agreed between the belligerents concerned.

**Article 114. Amdt. Belgium. 24.V.1949 . . . . . 179**

Replace the present Article by the following:

“The national Bureaux and the Central Information Agency shall enjoy free postage for mail, as regards international postal traffic, in obedience to the stipulations of the World Postal Convention and according to the agreement of the World Postal Union.

Countries which do not adhere to certain of the said agreements shall nevertheless be bound to grant free postage in the same circumstances.

The national Bureaux and the Central Information Agency shall likewise enjoy, as regards consignments intended for prisoners of war, all the exemptions provided for in Article 64 of the present Convention.

They shall further enjoy, so far as possible, exemption from telegraphic charges, or at least, greatly reduced rates.”

**Article 115. Amdt. United Kingdom. See Annex No. 32.**

**Article 115. Amdt. United Kingdom. 6.V.1949. . . . . 180**

Delete and substitute:

“It is accepted as a matter of principle that relief agencies shall be permitted, subject to such regulations as the Detaining Power may be obliged to prescribe to meet minimum demands of security, or any other reasonable necessity, to deliver to prisoners of war relief

supplies and recreational, educational and devotional material, regardless of the origin of such supplies and material. Such agencies may be indigenous to the countries where prisoners of war are detained, or established in other countries, or international in character.

Whenever possible, representatives of such international relief societies may be granted the privilege of visiting prisoners of war camps for the purpose of distributing relief supplies and for ministering to their devotional, educational and recreational needs.

It shall be permissible for a Detaining Power to limit the number of such agencies which may be authorized to function in areas under its control, provided, however that such limitation shall not preclude the effective operation of adequate relief measures for all prisoners of war.

Receipts shall be given by the administrative authorities of any camp to which relief supplies or recreational, educational and devotional material are delivered, and either at the time of delivery, or within a short period thereafter, receipts signed by the prisoners of war representative in the camp covering each shipment shall be forwarded to the relief agency from which the supplies were received."

(See also additional proposal in Annex No. 32.)

**Article 38/42/117/128.** *Text adopted by the Special Committee.* See Annex No. **48.**

**Article 117.** *Amdt. Canada.* See Annex No. **8.**

**Articles 39-40/43-44/119/130.** *Amdt. Netherlands, Australia, Belgium, Brasil, United States of America, France, Italy, Norway, United Kingdom and Switzerland.* See Annex No. **49.**

**Articles 39-40/43-44/119/130.** *Correction by I.C.R.C.* See Annex No. **50.**

**Article 40/44/119<sup>2</sup>/130<sup>2</sup>.** *Amdt. Canada.* See Annex No. **8.**

**Article 39/43/119<sup>1</sup>/130<sup>2</sup>.** *Amdt. Canada.* See Annex No. **8.**

**Article 40/44/119/130.** *Amdt. Denmark.* See Annex No. **54.**

**Article 39/43/119/130.** *Amdt. France.* See Annex No. **52.**

**Article 39/43/119/130.** *Text by the Special Committee.* See Annex No. **51.**

**Article 39/43/119/130.** *Amdt. Plen. U.S.S.R.* See Annex No. **53A.**

**Article 40/44/119A/130A.** *Text adopted by the Special Committee.* See Annex **55.**

**Article 40A/44A/119A/130B.** *Text adopted by the Special Committee.* See Annex No. **56.**

**Article 39/43/119/130.** *Amdt. Plen. U.S.S.R. 20.VII.1949.* See Annex No. **53.**

**Article 40/44/119A/130A.** *Amdt. Plen. U.S.S.R.* See Annex No. **53A.**

**Article 51/54/129/139.** *Text adopted by the Special Committee.* See Annex No. **57.**

**Article 52/55/130/140.** *Text adopted by the Special Committee.* See Annex No. **58.**

**Annex II. Recommendation by the Committee of Medical Experts. I.VI.1949 . . . . . 181**

While the terms of reference of the Committee of Medical Experts covered only Annex I, the Committee took advantage of the presence at its meeting of two former members of Mixed Medical Commissions, Professor K. M. WALTHARD and Dr. A. d'ERLACH, to examine Annex II.

The Committee came to the conclusion that Annex II, as it stands in the Working Document, should not be modified in any way, and recommends its adoption to Committee II.

On the other hand, the Committee of Medical Experts unanimously supported the opinion of the two former members of Mixed Medical Commissions, who consider it necessary to provide for the issue of an official certificate, identical in all armed forces, stating that the prisoner of war it concerns has been examined by a Mixed Medical Commission and passed for repatriation. It appears that on several occasions during the last war, prisoners had been passed for repatriation, but having no document in their possession to prove it, were retained in their camps. The Committee therefore recommends to Committee II the following text, which might be added to Annex IV of the Convention. The wording could, of course, be examined, by an *ad hoc* Committee:

*Repatriation Certificate*

Date:

Prisoner of War:

Civilian Internee:

Camp:

Hospital:

Name:

First Name:

Date of birth:

Rank:

Unit:

Army Number:

P.W. Number:

Injury—Disease:

Decision of the Commission:

*Chairman of the  
Mixed Medical Commission*

A = direct repatriation

B = accommodation in a neutral country

NC = re-examination by next Commission

**Annex II: Proposal. New Zealand to Article 13. 4.VII.1949. . . . . 182**

The Delegation of New Zealand noting that the Committee of Medical Experts recommended the adoption, without modification, of Annex II, and that Article 102 of the Convention has been referred to the second Drafting Committee, proposes that Article 13 of Annex II be referred to the latter Committee for reconsideration.

The reasons for this proposal are as follows:

- (1) It is suggested that the phrase "no neutral doctors" should replace the phrase "no neutral physician".
- (2) It is suggested that the phrase "subject to the provisions of Articles 1, 2, 3, 4, 5 and 8 of the present Regulations" is meaningless.

- (3) In view of the fact that the "Medical Commission" foreseen in this Article is not a "Mixed Medical Commission", it is suggested that a specific reference to Articles 102 and 103 of the Convention is desirable therein.
- (4) It is submitted that Article 13 might appropriately be placed after Article 14. The following text is submitted for consideration:

"If there are no neutral *doctors* in a country where the service of a Mixed Medical Commission seems required, and if it is for any reason impossible to appoint neutral doctors who are residents of another country, the Detaining Power, acting in agreement with the Protecting Power, shall set up a Medical Commission which shall begin its work as soon as possible. A Medical Commission set up in accordance with the foregoing provisions of this Article shall undertake the same duties as a Mixed Medical Commission in conformity with the provisions of Articles 102 and 103 of the Convention and of Articles 10, 11, 12 and 14\* of these regulations."

**Annex III. Amendments United Kingdom. 4.V.1949. . . . . 183**

Insert under heading: "Under Articles 61 and 63 of the Convention."

*Article 2.* Delete (see U.K. Amendment 3 to Article 61).

*Article 3.* Delete "railway stations or other places of arrival."  
Substitute "to the points of arrival of relief supplies."

*Article 7.* Before "a complete set of clothes" insert "at least".  
Delete "and hand them to".

Substitute "from those with the largest number of sets, or particular articles in excess of one, if this is necessary in order to supply."

Add at the end "He will not, however, withdraw second sets of underclothing, socks or footwear, unless this is the only means of providing for p/w with none."

*Article 8.* Delete "all purchases of goods" and substitute "purchases which may be".  
Delete "also" and substitute "similarly".

*Article 9.* Delete "or any other body giving assistance to prisoners which may be responsible for the forwarding of such supplies."

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\* Will become 13 if suggestion to put the present Article 13 after Article 14 is accepted.

**Decisions of the Bureau of the Committee III** (with regard to the procedure). II.VI.1949 No. 184

- (1) The texts prepared by the Drafting Committee shall serve as the basis of discussion in the second reading.
- (2) Delegations wishing to propose amendments affecting these texts should communicate them, in writing, to the Secretary of the Committee at least 48 hours before the discussion of the Article in question.
- (3) Delegations wishing to propose the adoption of a text approved by the Stockholm Conference should present an amendment to this effect.
- (4) If by way of amendment a Stockholm text is voted, those Delegations which have previously presented amendments relative to such text, may propose their adoption to the Committee.
- (5) If one of the texts proposed by the Drafting Committee is similar to the Stockholm text, Delegations which have previously presented amendments relative to that text may propose their adoption to the Committee.
- (6) If amendments relating solely to drafting, or to conciliation, should arise in the course of discussion, the Chairman of the Committee, in conformity with the last part of Rule 25 of the Rules of Procedure of the Conference, may permit their presentation.

*Note:* The Chairman wishes to remind the delegates that the Committee decided, at its Meeting of 7 June, to limit the time of speeches to 5 minutes per intervention and to 10 minutes per delegation for each Article.

**Preamble. Proposal made by Spain.** I.VI.1949 . . . . . 185

Add the following text to the Preamble:

*Statement of Motives*

In the Preamble or declaration of principles which serves as an introduction to the present Convention, four different aspects are put forward of the inalienable rights which all individuals possess by the mere fact of their existence. The High Contracting Parties undertake to respect these rights even in the emergency conditions created by war.

A declaration of such subjective rights would be of little value unless followed by a *corpus* of objective law embodied in provisions, the effect of which is absolute.

In the present Convention, the High Contracting Parties have set up a *corpus* of rules which already constitute positive law; the essential force of these rules resides in the obligation freely and solemnly affirmed therein.

The principles at issue being restricted to those applicable to civilian war victims, the first difficulty encountered is the absence of any precedent or positive ruling.

The regulations of the Laws and Customs of War on Land, signed at The Hague on 18 October 1907, provided in various Articles (for instance, 25 to 28 and 43 to 56) for certain privileges to be granted to the civil populations of occupied territories; and the Preliminary Act of the Geneva Conference of July 27, 1929, paragraph 6 recommended that a careful study should be made of the means of establishing an International Convention on the situation and protection of civilians of enemy nationality in belligerent territory or in territory occupied by a belligerent.

This recommendation consisted merely of expressions of goodwill which were not codified in a set of consistent provisions, and could not therefore serve as an essential working basis.

In the first place, the passive subject to which the principles of the Preamble should apply had to be determined, i.e. which persons were to be given protection.

Protected persons belong to three distinct categories:

- (1) Persons protected against the acts of a belligerent State into whose hands they have fallen, and of which they are not nationals (Article 3).
- (2) Persons who, forming part of the population of a belligerent country, are protected against certain effects of war specified in Article 11.
- (3) Persons who are entitled to special protection under Articles 26 and 46.

Articles 2 and 4 of the General Provisions determine the time and space in which the Convention will be applicable.

The active subject is the belligerent States themselves, which are bound to recognize the various rights granted to protected persons. Protecting Powers, or their substitutes as indicated in Articles 7, 9 and 126, may also be considered as active subjects.

The measures to be taken by the belligerent Powers for the practical fulfilment of their obligations are set forth in Articles 12, 15 and 20.

Part III defines the status of protected persons, which is the legal subject of the Convention. It is divided into five sections.

The first establishes the provisions common to the two categories of protected persons, some of whom are in the actual territory of the belligerent country, and others in enemy occupied territory.

Sections II and III amplify these provisions.

The twelve Chapters in Section IV concern the regulations relative to internees.

The fifth concerns Bureaux and Central Information Agencies.

Part IV deals with the execution of the Convention and the Final Provisions.

**Preamble. Amdt. United States of America. 26.IV.1949 . . . . . 186**

The High Contracting Parties, desiring to protect civilian populations from the horrors of war, and having due respect for the principles of human rights which constitute the safeguard of civilization, have agreed as follows:

**Preamble. Amdt. United States of America. I.VI.1949 . . . . . 187**

(Replaces the foregoing)

Delete entire Preamble and replace by:

“Respect for the personality and the dignity of the human being, arising from his divine origin, constitutes the fundamental principle of his civilization, which is universally binding upon all his fellows, even without any contractual undertaking;

This principle requires that, if war again ravages the earth, all those who are not engaged in the hostilities and all those, who, because of sickness, wounds, capture or any other circumstance, have been withdrawn from the hostilities, shall be given due respect and protection and that those among them who are suffering shall be aided and cared for regardless of race, nationality, religious belief, political opinion or any other circumstance, real or imagined;

The High Contracting Parties solemnly affirm their intention to adhere to this principle; they will insure its application, by means of the present Convention, to civilian persons in time of war; and they pledge themselves to respect and at all times to ensure respect for the present Convention.”

**Preamble. Amdt. Finland. 22.VI.1949 . . . . . 188**

The High Contracting Parties confirm their desire for peace and their unanimous resolve to make every attempt and to do all that lies in their power to protect present and future generations from the scourge of war. They feel, however, that it is indispensable

in cases where, notwithstanding their wishes and endeavours, certain conflicts might arise, to take all measures which may contribute to the prevention of a recurrence of the atrocities committed during the late World War and to the protection of civilian populations from the tragic consequences of the conflict.

Their desire is inspired by the eternal principles of that Law which is the foundation and the safeguard of civilization. It springs from the imperative duty imposed on mankind both by the requirements of human fellowship and the principles of universal morality.

The High Contracting Parties solemnly condemn the acts of barbarism which have revolted the conscience of mankind, and intend to make their recurrence impossible. To this effect they desire to ensure the respect of human personality and dignity. The physical integrity and spiritual liberty of men and women who are not directly taking part in hostilities must be safeguarded, whatever their nationality, race, sex, age, or their political, philosophical or religious opinions may be. Men and women who are suffering, wounded, sick or infirm, prisoners or internees must be helped and cared for. Protection and relief are due to them all.

In consequence, the High Contracting Parties proclaim their will to conform to these principles. They intend to see them implemented with regard to civilians in time of war in accordance with the rules of the present Convention, the provisions of which they, in the name of their peoples, undertake to respect and to cause to be respected in all circumstances.

**Preamble. *Amdt. France. 13.VI.1949* . . . . . 189**

The High Contracting Parties confirm their unanimous resolution to make every attempt, and to do all that lies in their power to protect present and future generations from the scourge of war. They feel, however, that it is indispensable in cases where, notwithstanding their wishes and endeavours, certain conflicts might arise, to solemnly bind themselves to take all measures which may contribute to the prevention of a recurrence of the atrocities committed during the late World War and to the protection of civilian populations from the tragic consequences of the conflict.

Their desire is inspired by the eternal principles of that Law which is the foundation and the safeguard of civilization. It springs from the imperative duty imposed on mankind both by the precepts of faith in one Divine authority, and by the principles of universal morality.

The High Contracting Parties solemnly condemn the acts of barbarism which have revolted the conscience of mankind and intend to make their recurrence impossible. To this effect, they desire to ensure the respect of human personality and dignity by putting beyond reach of attack those rights and liberties which are the essence of its existence.

In consequence, the High Contracting Powers proclaim their will to conform to these principles. They intend to see them implemented with regard to civilians in time of war in accordance with the rules of the present Convention and bind themselves to respect them and to ensure that all the provisions therein are respected in all circumstances.

*Preliminary Dispositions.*

The following shall be prohibited and shall remain prohibited at any time or in any place whatsoever:

- (a) Human beings shall not be subjected to attempts against their life, injuries to their physical integrity, tortures, mutilations or cruel treatments; physical punishment;
- (b) taking of hostages;
- (c) (individual) or collective deportations;
- (d) attacks against the dignity of persons, in particular humiliating or degrading treatment or discriminatory treatment based upon differences of race, colour, religion, beliefs, sex, birth or social status;
- (e) the pronouncement of sentences and executions carried out without preliminary trial by a regularly constituted tribunal giving all the necessary legal guarantees recognized by civilized nations as indispensable.
- (f) collective punishment as well as all acts of intimidation and terror, destruction of property.

**Preamble. Amdt. Switzerland. 5.VII.1949** . . . . . **190**

Replace the text submitted by the Working Party (*see Annex No. 191*) by the following:\*

“Respect for the personality and dignity of the human being is binding without contractual undertakings. Religions proclaim his divine origin and all people consider this principle as one of the foundations of every civilization.

By virtue of this principle, persons who are not directly engaged in the hostilities and those who have been withdrawn from hostilities, such as sick, wounded and prisoners, shall be respected, protected and cared for, regardless of race, nationality, religion, political opinions or any other circumstances.

Solemnly proclaiming their intention to respect the personality and dignity of the human being, the High Contracting Parties have agreed as follows:”

**Preamble. Text adopted by the Working Party. 4.VII.1949** . . . . . **191**

The High Contracting Parties confirm their unanimous resolution to make every attempt and to do all that lies in their power to protect present and future generations from the scourge of war. They feel, however, that it is indispensable in cases where, notwithstanding their wishes and endeavours, a conflict might arise, to take all measures which may contribute to the prevention of a recurrence of the atrocities committed during recent world wars and to the protection of civilian populations from the tragic consequences of the conflict.

Their desire is inspired by the eternal principles of law, which are the foundation and the safeguard of civilization.

The High Contracting Parties solemnly condemn the acts of barbarism which have revolted the conscience of mankind, and intend to prevent their recurrence. To this effect, they desire to ensure the respect of human personality and dignity by putting beyond reach of attack those rights and liberties which are the essence of its existence. Whatever their nationality, race, sex, age, political opinions, philosophy or religion, human beings shall have every guarantee of protection for their physical integrity and their spiritual independence. Those who suffer, the wounded, sick, infirm, as well as prisoners or internees, must receive aid and proper care. All are entitled to protection and assistance.

In consequence, the High Contracting Parties proclaim their will to conform to these principles. They intend to see them implemented with regard to civilians in time of war, in accordance with the Rules of the present Convention, and bind themselves, in the name of their peoples, to respect them and to ensure that all the provisions therein are respected in all circumstances.

#### *Preliminary Provisions\*\**

The following acts shall be prohibited and shall remain prohibited at any time or in any place whatsoever:

- (a) human beings shall not be subjected to attempts against their life or injury to their physical integrity. The following shall be considered grave crimes: murder, torture, mutilation, including scientific experiments, as well as any other means for the extermination of the civilian population;
- (b) the taking of hostages.
- (c) deportations, either individual or collective;

\* The Delegation of Switzerland proposes that an identical Preamble should appear at the beginning of the other Conventions.

\*\* It will be necessary to delete the following items from this text: Article 29: the words “torture and” in the second paragraph; Article 29A; Article 30: the second sentence of the first paragraph; Article 31; Article 45: first paragraph; Article 61: first paragraph.

- (d) attacks against the dignity of persons, in particular humiliating or degrading treatment or discriminatory treatment based upon differences of race, colour, religion, beliefs, sex, birth or social status;
- (e) the pronouncement of sentences and penal sanctions carried out without preliminary trial by a regularly constituted tribunal giving all the necessary legal guarantees recognized by civilized nations as indispensable.
- (f) collective penalties as well as any measures of intimidation or terrorism; the destruction of any real and personal property belonging to private individuals or to the State, as well as to social or co-operative organizations when this is not rendered absolutely necessary by military operations.

**Preamble.** *Extract of the Draft Report of Committee III to the Plenary Assembly . . . . .* **192**

At Stockholm, the Committee on the Civilians Convention was the only one of the three legal Committees to take the initiative of inserting, at the head of the Convention, a Preamble expressing two ideas: on the one hand, it proclaimed the existence of principles of universal human law which constitute a safeguard to civilization; on the other hand, it prohibited certain particularly odious acts of which there were so many tragic examples during the war.

At Geneva, during the first reading in Committee III, two meetings were devoted to this question. Some delegations considered that the Preamble should be confined to the solemn affirmation of the philosophical principles of human protection, and should avoid enumerating the most revolting forms of war crimes, since this would merely constitute a repetition of what is prohibited elsewhere in the body of the Convention. The discussion then reached a higher plane in connection with various proposals to refer to the divine origin of man and to the Creator, regarded as the source of all moral law. No vote was taken, however, and Committee III set up a Working Party, on which 9 delegations were represented, to consider the question of the Preamble. A considerable number of amendments were submitted to this Working Party, and led to an animated but rather involved discussion, as may be seen in the report submitted jointly by Professor de Geouffre de la Pradelle (Monaco) and Professor Castrén (Finland) (*See Summary Record of 45th Meeting*), to which we refer. It resulted in the adoption of a Draft Preamble in four paragraphs.

When this Draft was being discussed by Committee III at a second reading, several amendments were submitted, in particular, the first amendment of the Canadian Delegation which aimed at "omitting the Preamble adopted by the Working Party and refraining from adopting any Preamble at all". This led to a lengthy discussion on procedure, and it was finally decided to vote first on the most far-reaching amendment, the Canadian one, which was adopted by 27 votes to 17. This meant that no Preamble would be included.

What were the reasons which determined this decision? The question of procedure was discussed at such length that there was no real opportunity to consider the reasons against a Preamble. The Rapporteur must therefore confine himself to voicing opinions which were not publicly expressed. In trying to interpret the decision, in the light of semi-official explanations, he is led to the conclusion that the majority's attitude was probably inspired by the following reasons:

First, the fact that the majorities in the Working Party in favour of the various paragraphs of the text submitted were very small, undermined the authority of the Draft Preamble. Many delegations, moreover, were disappointed that this compromise proposal did not contain any reference to the affirmative statements they wished to embody in it, and in these circumstances, since the Preamble was not indispensable, they preferred to forge it. It is also quite possible that some delegations, knowing that Committees I and II had adopted shorter and more concise Preambles, preferred definitely to reject the Draft submitted by the Working Party, in the hope that the Plenary Meeting would decide to adopt a Preamble closely modelled on the Preamble to the three other Conventions.

**Article 2/2/2/2.** third paragraph. *Amdt. Belgium.* See Annex No. 9.

**Article 2/2/2/2.** third paragraph. *Amdt. Canada.* See Annex No. 8.

**Article 2/2/2/2.** *Passage from "Remarks and Proposals" I.C.R.C.* See Annex No. **10.**

**Article 2/2/2/2.** fourth paragraph. *Amdt. Australia.* See Annex No. **11.**

**Article 2/2/2/2.** fourth paragraph. *Amdt. France.* See Annex No. **12.**

**Article 2/2/2/2.** fourth paragraph. *Amdt. France. To the second Draft of the first Working Party*  
See Annex No. **13.**

**Article 2/2/2/2.** *Text adopted by the Special Committee.* See Annex No. **14.**

**Article 2A/2A/2A/2A.** *Amdt. Plen. U.S.S.R.* See Annex No. **15.**

**Article 3.** *Amdt. Australia 27.IV.1949* . . . . . **193**

Insert proviso after first paragraph:

"Provided persons definitely suspected of or engaged in activities hostile to the security of the State or the Occupying Power shall not be entitled to such rights and privileges contained in this Convention, as this would be prejudicial to the security of such State or Power."

**Article 3.** *Text submitted to Committee III by the Majority (Canada, France, Switzerland, United Kingdom, United States of America) of the Drafting Committee* . . . . . **194**

*Definition of Protected Persons*

Persons protected by the Convention are those who, at a given moment and in whatever manner, find themselves, in case of a conflict or occupation, in the hands of a Party to the conflict or Occupying Power of which they are not nationals.

Nationals of a State not bound by the Convention are not protected by it. Nationals of a neutral State who find themselves in the territory of a belligerent State, and nationals of a co-belligerent State, shall not be regarded as protected persons while the State of which they are nationals has normal diplomatic representation in the State in whose hands they are.

The provisions of Part II are, however, wider in application, as defined in Article 11.

Persons protected by the Convention for the Relief of the Wounded and Sick in Armed Forces in the Field, or by the Convention for the Relief of Wounded, Sick and Shipwrecked Members of Armed Forces on Sea, or by the Convention relative to the Treatment of Prisoners of War, shall not be considered as protected persons within the meaning of the present Convention.

*Note:* The Drafting Committee reserved any modifications to the above text which might be rendered necessary by Article 2 as far as conflicts not international in character are concerned.

**Article 3A.** *Text adopted by the Drafting Committee and submitted to Committee III* . . . . . **195**

Where in the territory of a belligerent, the Power concerned is satisfied that an individual protected person is definitely suspected of or engaged in activities hostile to the security of the State, such individual person shall not be entitled to claim such rights and privileges under this Convention as would, if exercised in the favour of such individual person, be prejudicial to the security of such State.

Where in occupied territory an individual protected person is detained as a spy or saboteur, or as a person under definite suspicion of activity hostile to the security of the

Occupying Power, such person shall in those cases where absolute military security so requires be regarded as having forfeited the rights of communication under this Convention.

In each case, however, such persons shall nevertheless be treated with humanity and in case of trial shall not be deprived of the rights of fair and regular trial prescribed by this Convention. They shall also be granted the full rights and privileges of a protected person under this Convention at the earliest date consistent with the security of the State or Occupying Power, as the case may be.

*Note:* This text was adopted by 5 votes (Canada, France, Switzerland, United Kingdom, United States of America) against one (Union of Soviet Socialist Republics). The Delegation of Norway abstained from voting. The minority of the Drafting Committee (U.S. S.R.) pressed for the deletion of Article 3A.

**Article 3A.** *Proposal submitted to the Plenary Assembly for Reconsideration of Article 3A and submitted in accordance with Rule 33 of the Rules of Procedure of the Conference by the following Delegations: Austria, Burma, France, Sweden, Switzerland and Turkey. 4.VIII.1949 . . . . .*

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In view of the fact that Article 3A, as adopted by the Plenary Meeting, is not very happily worded, and that, in its present form, it might diminish the efficacy of the Civilians Convention; and that while not requiring recasting, it should be revised,

the above Delegations move that the Plenary Meeting should re-open the debate in accordance with Rule 33 of the Rules of Procedure and that Article 3A should be worded as follows:

“Where, in the territory of a Party to the conflict, there is actual proof or serious presumptive evidence that a given person, protected under the present Convention, is engaged in activities hostile to the security of the State, such person shall not be entitled to claim such rights and privileges under this Convention as would, if exercised in the favour of such person, be prejudicial to the security of such State.

Where, in occupied territory, an individual protected person is detained on a charge, based on actual proof or serious presumptive evidence, of espionage, sabotage or activity aimed at endangering the security of the Occupying Power, such person may, in those cases where absolute military security so requires, be deprived of the rights of communication under this Convention; the notification prescribed in Article 123, second paragraph, and its transmission as provided for in Article 123A may not be delayed beyond a reasonable period.

Such persons shall nevertheless be treated with humanity and in case of trial shall not be deprived of the rights of fair and regular trial prescribed by this Convention. They shall also be granted the full rights and privileges of a protected person under this Convention at the earliest date consistent with the security of the State or Occupying Power.”

**Article 3A.** *Proposal intended to replace the preceding one submitted by the same Delegations. 5.VIII.1949 . . . . .*

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The Delegations signatories to the amendment distributed on 4 August 1949, have reconsidered the question of Article 3A. Their attention has been directed not only to the French text, which in its present form, causes to them some concern, but also to the English text. This scrutiny shows that it should be possible to remove these doubts, at least partially, by providing a more accurate translation of the English version. They have arrived at the conclusion that some progress could be achieved without reopening the discussion on the substance of Article 3A, simply by making certain corrections to the French text.

They have therefore decided:

- (1) to withdraw the amendment of 4 August 1949;
- (2) to propose that certain corrections should be made to the French text of Article 3A, corrections which appear in the French version of the above document; the English text to remain unaltered.

**Article 4.** *Text adopted by the Drafting Committee and proposed to Committee III* . . . . . **198**

*Beginning and end of application*

The present Convention shall apply from the outset of any conflict or occupation enumerated in Article 2.

In the territory of Parties to the conflict, the application of the Convention shall cease one year after the general close of military operations.

In the case of occupied territory, the application of this Convention shall cease one year after the general close of military operations; however, the Occupying Power shall be bound for the duration of the occupation, to the extent that such Power exercises the functions of government in such territory, by the provisions of the following Articles of this Convention:

I to 10, 25, 26, 29, 29A, 30, 31, 43, 45, 47, 48, 48A, 50C, 52 to 67, 126.

Protected persons whose release, repatriation or re-establishment may take place after such dates shall meanwhile continue to benefit by the present Convention.

*Note:* The Drafting Committee reserves the right to reconsider the above list of Articles according to the decisions which will be taken by Committee III with regard to these Articles. The above text was adopted by 5 votes (Canada, France, Norway, Switzerland, United States of America) to 2 (United Kingdom, Union of Soviet Socialist Republics). The Soviet Delegation agrees with the first, second and fourth paragraphs but is opposed to the third paragraph.

**Article 4/5/5/5.** *Text adopted by the Special Committee.* See Annex No. **16.**

**Article 5/6/6/6.** *Passage from "Remarks and proposals" I.C.R.C.* See Annex No. **17.**

**Article 5/6/6/6.** *Text presented to the XVIIIth Red Cross Conference.* See Annex No. **18.**

**Article 6/7/7/7.** *Amdt. Canada.* See Annex No. **8.**

**Article 6/7/7/7.** *Draft adopted by the Special Committee.* See Annex No. **19.**

**Article 8/9/9/9.** *Extract from Memorandum by United Kingdom.* See Annex No. **20.**

**Article 8/9/9/9.** *Amdt. France.* See Annex No. **21.**

**Article 8/9/9/9.** *third paragraph. Amdt. France.* See Annex No. **22.**

**Article 8/9/9/9.** *Amdt. United Kingdom.* See Annex No. **23.**

**Article 8/9/9/9.** *Aide-Mémoire I.R.O.,* See Annex No. **24.**

**Article 8/9/9/9.** *Text adopted by the Special Committee.* See Annex No. **25.**

**Article 9.** *Amdt. Plen. Ireland. 20.VII.1949* . . . . . **199**

Add at the end the following paragraph:

"The provisions of this Article shall extend and be adapted to cases of nationals of a neutral State who are in occupied territory or who find themselves in the territory of a belligerent State in which the State of which they are nationals has no normal diplomatic representation."

**Article 8/9/9.** *Amdt. Plen. U.S.S.R.* See Annex No. 26.

**Article 9/10/10/10.** *Text adopted by the Special Committee.* See Annex No. 27.

**Articles 12, 20, 21, 27.** *Letter addressed to the Chairman of Committee III by the International Union for Child Welfare. 21.V.1949* . . . . .

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Sir,

As we have already brought to the notice of the Conference, and as noted by Committee III at its fifth Session on 29 April, the International Union for Child Welfare is particularly interested in the Articles of the Draft Convention for the Protection of Civilians in Time of War pertaining to children and mothers.

Though the I.U.C.W. has refrained from demanding to be heard in its capacity of Expert by Committee III, its Representatives are following the examination of the Draft Convention, still under discussion, with the closest attention, and we are happy to note the unanimous desire of the delegates to work out a text providing maximum safeguards for the safety and welfare of children.

In the hope that you will be good enough, Sir, to communicate them to the Committee, the I.U.C.W. ventures, however, to offer a few comments on some of the Articles of direct interest to them which have already been the object of amendments and that the final drafting which is important shall ensure the utmost possible protection of children and mothers.

*Article 12. — Safety Zones*

Whatever may be the final wording adopted for this Article, for which numerous amendments have been submitted, we believe it is essential that it should safeguard the principle of safety zones to be set up by the Contracting Parties and, in the case of hostilities, by the Parties to the conflict, so as to protect certain categories of their population from the effects of war; in particular, children under 15, expectant mothers and mothers of children under 7, shall be definitely recognized by the other Party to the conflict, and the latter shall be required to respect these zones.

*Article 20. — Shipment of medical stores, foodstuffs, clothing and tonics*

In the absence of a definite obligation, it appears to us essential to preserve in the drafting of this Article a clearly worded moral obligation for the Contracting Parties to authorize the free passage of such shipments.

*Article 21. — Special measures applying to children*

We venture to urge that this Article be maintained, if possible in its present wording, under Part II of the Convention, because it should apply to all children who have become orphaned or separated from their parents as a result of the war, irrespective of their nationality and wherever they may be found.

As regards reception in a neutral country, obviously this is an optional measure, but whenever it would appear to be in the interests of the children in question, the Contracting Parties should be required to facilitate its execution.

Recognizing the entire validity of the arguments which have been advanced against the wearing of an identity disc, we believe that it is not opportune to press this measure upon the Contracting Parties.

In several respects, the new Draft presented by the Delegation of the United States of America seems to be a satisfactory wording.

*Article 27. — Women and children*

We believe that it is important to maintain this Article in its present place and, if possible, without any substantial modification, since these measures are meant for the

benefit of all children and women, whatever their nationality, both in the territory under the control of their Government and in occupied territory. This is a fundamental principle which is essential to affirm.

We have the honour to be, Sir,

Yours very truly,

Georges THÉLIN  
Secretary General

A. MORIER-PICTET  
Chairman, Executive Committee

No.

**Article 12.** *Text presented by the Delegations of Canada, United Kingdom, United States of America (called text of the minority).* 7.VII.1949 . . . . . **201**

*Hospital and Safety Zones and Localities*

In time of peace, the Contracting Parties and, in case of conflict, the Parties thereto, shall consider the possibility of setting up in their own territory, and if the case arises, in occupied areas, hospital and safety zones and localities so organized as to protect from the effects of war, wounded, sick, and aged persons, children under fifteen, expectant mothers and mothers of children under seven.

Recognition of zones and localities shall be dependent upon agreement between the High Contracting Parties concerned, who may, for this purpose, adopt the provisions of the Draft Agreement annexed to the present Convention, with such amendments as they consider necessary.

The Protecting Powers and the International Committee of the Red Cross shall lend their good offices in order to facilitate the institution and recognition of these hospital and security zones and localities.

**Article 12.** *Text presented by France, Norway, Switzerland, Union of Soviet Socialist Republics (called text of the majority).* 7.VII.1949 . . . . . **202**

*Hospital and Safety Zones and Localities*

In time of peace, the Contracting Parties and, in case of conflict, the Parties thereto, shall endeavour to set up in their own territory, and, if the case arises, in occupied areas, hospital and safety zones and localities so organized as to protect from the effects of war, wounded, sick, and aged persons, children under fifteen, expectant mothers and mothers of children under seven.

Upon the outbreak and during the course of hostilities, the Parties concerned shall agree on recognition of the zones and localities they have set up, and may, for this purpose, implement the provisions of the Draft Agreement annexed to the present Convention, with such amendments as they may consider necessary.

The Protecting Powers and the International Committee of the Red Cross shall lend their good offices in order to facilitate the institution and recognition of these hospital and security zones and localities.

**Article 12.** *Amdt. Netherlands.* 4.V.1949 . . . . . **203**

Replace the text in the Draft by the following:

A. *In time of peace*

It is incumbent on any Contracting Party who, already in time of peace, sets up in its territory one or several hospital and security zones and localities so organized as to protect from the effects of war the wounded and sick, children under fifteen, expectant mothers, mothers of children under seven, persons over sixty-five, and the personnel entrusted with the organization and administration of such zones and localities, and with the care

of the persons assembled therein, to inform the other Contracting Parties of its decision and shall notify the geographical location of the part of its territory it has in view.

This notification shall contain the undertaking of the said Government that the zone or localities in question fulfil the conditions laid down in Annex I of the present Convention.

In the event of subsequent hostilities it shall be incumbent on all other Contracting Parties to respect the zones and the localities of which they have been notified, unless they communicate their objections to the State from which they have received notification, within 20 days of receipt of such notification.

#### B. *In time of war*

In the event of war, all Parties to the conflict may decide to set up one or several hospital zones or localities as foreseen in Annex I. It is incumbent on the Party in question to notify the other Parties to the conflict of this decision, by the intermediary of one or several neutral States or of an impartial humanitarian organization.

It is incumbent on the Parties to the Conflict to respect the zones and localities thus notified, unless they have raised an objection within 30 days from the date on which the neutral State or the impartial humanitarian organization has delivered the notification.

If any Party to the conflict wishes to set up one or several hospital and security zones or localities which do not fulfil the conditions laid down in Annex I, it is incumbent on that Party to conclude a special agreement with the other Party or Parties to the conflict.

The Protecting Powers and the International Committee of the Red Cross are requested to lend their good offices in order to facilitate the institution and recognition of these hospital and security zones.

#### C. *Cancellation*

Should it come to the notice of one of the High Contracting Parties that a zone, hospital locality or security locality, the setting up of which has been duly notified in accordance with paragraph A or B, ceases to fulfil the required conditions, the Party concerned shall have the right to inform the High Contracting Parties or the other Party to the conflict that it no longer recognizes that zone or locality. As far as the Party responsible for the cancellation is concerned, recognition shall only terminate six months after the other Party to the conflict or the High Contracting Parties have received notification thereof.

### Article 12. *Amdt. United Kingdom. 25.IV.1949* . . . . . 204

Delete "shall endeavour to" in the second line of the first paragraph and substitute "may".

Delete the second paragraph and substitute the following:

"Recognition of zones and localities shall be dependent upon agreement between the High Contracting Parties concerned, who may, for this purpose, adopt the provisions of the Draft Agreement annexed to the present Convention, with such amendments as they consider necessary"

### Article 12A. *Amdt. United Kingdom. 25.IV.1949* . . . . . 205

Delete the first paragraph and substitute the following text:

"Any Party to the conflict may, either directly or through some humanitarian organization, propose to the adverse Party the establishment in the regions where fighting is taking place, of neutralized zones intended to shelter from the effects of war wounded and sick combatants or non-combatants, and the personnel responsible for their care. In addition the zones may provide shelter for other persons who are civilians, who take no part in hostilities and who, while they are in the zones, perform no productive work."

**Article 12A. Amdt. United Kingdom. 4.V.1949 . . . . . 206**

(Cancelling Amendment dated 25th April 1949)

Delete the first paragraph and substitute the following:

“Any Party to the conflict may authorize a Commander in the field to propose, either direct or through some neutral State or humanitarian organization, to the adverse Commander to establish in the regions where fighting is taking place, neutralized zones intended to shelter from the effects of war wounded and sick combatants or non-combatants, and the personnel responsible for their care. In addition the zones may provide shelter for other persons who are civilians, who take no part in hostilities and who, while they are in the zones, perform no work of a military character.”

**Article 12A. Text adopted by the Drafting Committee. 7.VII.1949 . . . . . 207**  
*Neutralized Zones*

Any Party to the conflict may, either direct or through a neutral State, or some humanitarian organization, propose to the adverse Party to establish, in the regions where fighting is taking place, neutralized zones intended to shelter from the effects of war the following persons, without distinction:

- (a) Wounded and sick combatants or non-combatants.
- (b) Civilian persons who take no part in hostilities, and who, while they reside in the zones, perform no work of a military character.

When the Parties concerned have agreed upon the geographical position, administration, food-supply and supervision of the proposed neutralized zone, a written agreement shall be concluded and signed by the representatives of the Parties to the conflict. The agreement shall fix the beginning and the duration of the neutralization of the zone.

**Article 13. Amdt. United Kingdom. 25.IV.1949 . . . . . 208**

Delete the first sentence and insert in lieu the following provision in Part III, Section III:

“If need be the occupying Power shall, so far as possible, ensure that the existing medical and hospital services are maintained and shall allow medical personnel of all categories to carry out their duties.”

**Article 13. Amdt. revised United Kingdom. 4.V.1949 . . . . . 209**

(Cancelling Amdt. 25.IV.1949)

Delete the first sentence and insert in lieu the following provisions in Part III, Section II:

“Protected persons shall be entitled to the same medical and hospital facilities as are afforded to the local population.”

*Note:* As regards occupied territory, the principles of the deleted sentence should be incorporated in a revised Article 50.

**Article 13. Text adopted by the Drafting Committee. 2.VI.1949. . . . . 210***Wounded and Sick. I. General Protection*

The wounded and sick as well as the infirm, and expectant mothers shall be the object of particular protection and respect.

As far as military considerations allow, each Party to the conflict shall facilitate the steps taken to search for the killed and wounded, to assist the shipwrecked and other persons exposed to grave danger, and to protect them against pillage and ill-treatment.

**Article 15. *Amdt. Belgium. 5.V.1949* . . . . . 211**

The terms of Article 15 provide for the protection of civilian hospitals.

This protection is solely reserved to civilian hospitals recognized as such by the State and which are in possession of a document certifying such recognition.

It would appear that, from a humanitarian point of view, this protection should be given to any civilian hospital operating as such. To allow such a protection to depend on official authorization would be tantamount to risking the withdrawal of this protection from a number of establishments which had already stood the test at the very moment when appeals would be made to private undertakings. The State will always be in a position to put a stop to the activity of establishments which do not fulfil the required technical condition and whose existence might offend patriotic sentiments.

In order to take the above considerations into account, the preliminary part of Article 15 might be worded as follows:

“Civilian hospitals organized for the permanent care of the wounded, sick, cripples and women during confinement, shall at all times be respected.”

The first sentence of paragraph 2 would then be deleted and included in Article 19. The first paragraph of Article 19 would then read as follows:

“Only those hospitals authorized to operate as such by the State shall bear the emblem of the Red Cross on a white ground (Red Crescent, Red Lion and Sun).”

A second paragraph dealing with the recognition of these hospitals could then complete this text and be worded as follows:

“The recognition of such hospitals by the State shall be certified by a statement issued to each of them.”

The reference to Article 15 in Article 18, paragraph 2, should refer to Article 19. The same applies to Article 19B, where the reference to Article 15 should be replaced by the reference to Article 19.

The aim of the amendments submitted by the Belgian Delegation is to accord a general protection to all hospitals while reserving, as far as marking is concerned, a special situation to establishments enjoying special State recognition.

**Article 15. *Text adopted by the Drafting Committee. 2.VI.1949* . . . . . 212**

*III. Protection of Hospitals*

Civilian hospitals, recognized as such by the State and organized on a permanent basis to give care to the wounded and sick, the infirm and maternity cases, may in no circumstances be the object of attack, but shall at all times be respected and protected by the Parties to the conflict.

The recognition of such establishments by the State shall be certified by a document delivered to each of them. In view of the danger incurred by hospitals being close to military objectives, it is recommended that such hospitals be situated as far as possible from the said objectives.

\* The hospitals as defined in paragraph 1 may be marked by means of the emblem provided for in Article X of the 1949 Geneva Convention for the Relief of the Wounded and Sick in the Armed Forces in the Field, with the consent of the responsible authorities.

\* The Parties to the conflict shall, in so far as military considerations permit, take the necessary steps to make the distinctive emblems indicating civilian hospitals clearly visible to the enemy land, air and naval forces, in order to obviate the possibility of any hostile action.

\* The above paragraphs 3 and 4 originally formed Article 19.

Articles 15 and 50. Amdts. Argentina, Belgium, Denmark, Italy, Luxemburg, Uruguay, Venezuela.  
31.VII.1949 . . . . .

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I. For Article 15 substitute the following:

“Civilian hospitals may in no circumstances be attacked, but shall at all times be respected by the Parties to the conflict.

“Civilian hospitals recognized as such by the State and organized to give care to the wounded, the sick, the infirm and maternity cases shall be marked by means of the emblem provided for in Article 10 of the Geneva Convention of 1949 for the Relief of the Wounded and Sick of Armies in the Field, with the permission of the responsible military authorities of the State.

The recognition of these establishments by the State, and the right to display the above-mentioned emblem, shall be attested by a document issued to each of them.

The Parties to the conflict shall, as far as military requirements allow, take all necessary measures to make distinctly visible to enemy forces on land, on sea and in the air the distinctive emblem marking civilian hospitals in order to avoid the possibility of any aggressive action.

In view of the dangers which may arise from the proximity of hospitals to military objectives, all possible measures should be taken for them to be as far removed from them as possible.”

II. In Article 50, second paragraph, after the words “the Occupying Parties shall state” insert “if necessary”.

Commentary

The object of the proposed amendment, which is based on a suggestion of the International Committee of the Red Cross is to establish in unambiguous terms the right to protection for hospitals of all descriptions, but to reserve the benefit of the display of the Red Cross emblem to hospitals organized for the care of the wounded, the sick, their firm and maternity cases, and recognized as such by the State. The result would be to limit the use of the emblem in question and thus to increase its value.

Articles 15, 18 and 19A. Amdt. Pakistan, United Kingdom and United States of America.  
29.VII.1949 . . . . .

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Authorization of Red Cross, etc., emblem.

1. Under the Civilians Convention it is proposed that the protection of the Red Cross, etc., emblem should for the first time be extended to civil hospitals and their personnel and to civil ambulances. In each case a different authority has been made responsible, in the proposed Articles, for the authorization of the use of the emblem, viz:

Article 15 (Civil Hospitals)

“The State and the National Red Cross Society”

Article 18 (Armlets of the Hospital Personnel)

“The responsible authorities”

Article 19A (Civil Ambulances)

“The State”.

2. It is clearly desirable that the control of the Red Cross, etc., emblem should be in the hands of the same responsible authority and, therefore, that the same expression should be used in each Article. The circumstances of each country in regard to the control of civil medical institutions vary so greatly that it is considered that the only expression which is practicable to use is “the State”, which, since it is always responsible for complying with the conditions of the Convention, must always retain the responsibility for preventing misuse of the emblem.

*Safeguards against abuse*

3. The above-named Delegations further consider that it is the duty of the Conference, notwithstanding any measures which may be taken by individual States, to take every precaution to ensure that by the great and unprecedented extension of the use of the Red Cross, etc., emblem to civil institutions, the way is not opened to abuse which may weaken and even finally destroy the effectiveness of the emblem over the whole field of warfare. To this end they recommend that certain additional safeguards should be included in Articles 15, 18 and (subject to paragraph 7 below) 19A.

*Article 15.*

4. These safeguards comprise, in the case of hospitals, an additional provision in Article 15 that the certificate of recognition given by the State shall not only be delivered to the hospital concerned but shall be held available for inspection by the Protecting Power, in order to facilitate the latter's execution of its duties under this Convention.

*Article 18.*

5. In the case of hospital personnel the protection of the Red Cross, etc., emblem is at present extended by Article 18 to all personnel regularly engaged in hospital duties. This would cover all part-time employees, e.g. persons who devote a few hours a day to work in hospitals but who engage in other activities, such as work in munition factories, during the rest of the day. It is clearly wrong that such persons should wear Red Cross, etc., armlets and receive full protection while engaged in factory work, and it is therefore proposed that the full protection of the Article should be restricted to persons "regularly and solely" engaged in hospital work.

6. To cover other hospital employees, e.g. part-time workers, it is proposed to add a new paragraph affording them full protection and entitlement to wear the armlet while they are actually engaged in hospital work.

*Article 19A.*

7. In the case of Article 19A (transport), further safeguards will only be necessary if the Conference decides that the protection of the Red Cross, etc. emblem shall be extended not only to convoys of vehicles and hospital trains (as is proposed by the United States Delegation in an amendment, see Summary Record of the Twenty-fifth Plenary Meeting) but also to civil ambulances in general. In such an event the following additional safeguards are proposed:

- (a) the emblem should be authorized only for transport vehicles exclusively engaged on the transport of the wounded and sick, etc., so that the emblem may never appear on a vehicle engaged in another and possibly warlike task;
- (b) to avoid the misuse by drivers, etc., who may not be fully aware of the conditions governing the use of the emblem, there should be a certificate, held on the vehicle, certifying its status, and indicating that it may not be used for any purpose other than that of transporting the wounded and sick, etc.;
- (c) there should be a specific provision that such vehicles should be subject to inspection by representatives of the Protecting Power.

8. In consequence of these considerations, the following amendments to Articles 15, 18 and 19A are submitted to the Conference:

*Article 15**Amendment No. 1: Second paragraph:*

Add to the first sentence "which shall be held available for inspection by the Protecting Power".

*Amendment No. 2: Third paragraph, lines 5 and 6:*

Delete "and of the National Red Cross Society".

The Delegate of the American Red Cross who had asked for the mention of the National Red Cross Society in this Article and in Article 18 of the Stockholm Draft did so because of a misunderstanding and has since requested that these words be deleted. Many National Red Cross Societies, including the American Red Cross Society, do not want to undertake the additional administrative burden that would be imposed on them under Article 15.

After learning of the foregoing, Committee III on second reading deleted the reference to the National Red Cross Society in Article 18 and followed the same principle in amending Article 19B. The closure rule prevented the presentation of the present information in connection with Article 15 on second reading.

#### *Article 18*

*Amendment No. 1: First paragraph, line 1:*

After "regularly" insert "and solely".

*Amendment No. 2: Second paragraph, line 9.*

Delete "responsible authorities" and substitute "State".

*Amendment No. 3: Insert new paragraph as third paragraph:*

"Other personnel who are engaged in the operation and administration of civil hospitals shall be entitled to respect and protection and to wear the armlet, as provided, and under the conditions prescribed, in this Article, while they are employed on such duties. In their case the identity card shall state the duties on which they are employed."

#### *Article 19A*

Delete Article 19A and substitute:

"Transport vehicles exclusively engaged in the transport of wounded and sick civilians, the infirm and maternity cases, shall in no circumstances be attacked but shall at all times be respected and protected by the Parties to the conflict. In occupied territory and in zones of military operations, they shall be recognizable:

- (a) by means of a document issued by the State, certifying that they are a civil transport vehicle, as indicated above, and indicating clearly that they may be used for no purpose other than those specified in this Article;
- (b) if so authorized by the State, by the display of the distinctive emblem provided for in Article X of the 1949 Geneva Conventions for the relief of wounded and sick in the armed forces in the field.

Such vehicles shall be subject to inspection by representatives of the Protecting Power."

#### **Article 15.** *Text submitted to the Plenary Assembly by the Working Party\**. 4.VIII.1949 . . . . . **215**

Civilian hospitals organized to give care to the wounded and sick, the infirm and maternity cases, may in no circumstances be the object of attack but shall at all times be respected and protected by the Parties to the conflict.

States which are Parties to a conflict shall provide all civilian hospitals with certificates showing that they are civilian hospitals and that the buildings which they occupy are not used for any purpose which would deprive these hospitals of protection in accordance with Article 16.

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\* The following Delegations were members of this Working Party: Belgium, India, Union of Soviet Socialist Republics, United Kingdom, Uruguay.

Civilian hospitals shall be marked by means of the emblem provided for in Article 38 of the Geneva Convention of . . . . . 1949, for the Relief of the Wounded and Sick of Armies in the Field, and only with the permission of the State.

The Parties to the conflict shall, in so far as military considerations permit, take the necessary steps to make the distinctive emblems indicating civilian hospitals clearly visible to the enemy land, air and naval forces in order to obviate the possibility of any hostile action.

In view of the dangers to which hospitals may be exposed by being close to military objectives, it is recommended that such hospitals be situated as far as possible from such objectives.

**Article 15. Amdt. Plen. Canada. 22.VII.1949 . . . . . 216**

The third paragraph of Article 15 as adopted by Committee III reads as follows:

“The hospitals as defined in the first paragraph shall be marked by means of the emblem provided for in Article 10 of the 1949 Geneva Convention for the Relief of the Wounded and Sick in the Armed Forces in the Field, with the consent of the State and of the National Red Cross Society.”

*The Canadian Delegation's amendment is to change the phrase “shall be marked” to “may be marked” i.e. to adopt the recommendation of the Drafting Committee of Committee III. That recommendation was rejected by Committee III by a vote of 15 to 14.*

*Explanation*

The Canadian Delegation shares the misgivings of the International Committee of the Red Cross regarding the new uses of the Red Cross emblem provided for in the Civilians Convention (see “Remarks and Proposals” submitted by the International Committee of the Red Cross, English edition, page 72). It should be kept in mind that the provisions in the Civilians Convention regarding the use of the Red Cross emblem by civilian hospitals and their personnel and by transports are entirely new and such uses are not authorized by present international law.

The Canadian Government, although sharing the misgivings of the I.C.R.C. regarding the proposed uses of the Red Cross emblem set forth in the Civilians Convention, does not at this time object to the Convention granting *authorization* for the use of the emblem on civilian hospitals in time of war. Such authorization would clearly be given even if the phrase “may be marked” were used.

What the Canadian Government does consider unreasonable is the inclusion in the Convention of a provision compelling all contracting governments to place the emblem on civilian hospitals, without any discretion being left to individual governments as to the need for such wide use of the emblem in particular countries at particular times.

For example, in a country like Canada which covers a vast territory, and which is far removed from the parts of the world in which wars are most frequently fought, it is difficult to see why the Canadian Government should be under a positive obligation, immediately Canada enters a war, to place the Red Cross emblem on every civilian hospital in all parts of Canada. The Canadian Government might very well think that it would be sensible to use the emblem on civilian hospitals in one part of Canada but not in another part, or it might feel that there was no practical need to use the emblem in this way unless and until the fighting came close to Canadian territory.

The Canadian Delegation wishes to emphasize that the use of the phrase “may be marked” in the third paragraph of Article 15 would grant authorization to governments to use the emblem on civilian hospitals in time of war—an authorization which does not exist at present. The Canadian Delegation urges that this would be going quite far enough in the Convention, and that it would be unreasonable to go further and to leave individual governments no discretion whatsoever.

	No.
<b>Article 17.</b> <i>Text adopted by the Drafting Committee*</i> . 2.VI.1949 . . . . .	<b>217</b>

V. *Protection of hospitals in enemy or occupied territory*

Civilian hospitals may pursue their activities and shall be protected against pillage. In case of urgent necessity, however, the occupying Power may employ civilian hospitals for the care of civilian or military wounded and sick, on condition that suitable arrangements are made in due time for the care and treatment of the patients and for the need of the civilian population for hospital accommodation.

The material and stores of civilian hospitals cannot be requisitioned, as long as they are necessary for the patients.

**Article 18.** *Amdt. Belgium.* 5.V.1949. See Annex No. **211**.

<b>Article 18.</b> <i>Text adopted by the Drafting Committee.</i> 2.VI.1949 . . . . .	<b>218</b>
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VI. *Hospital personnel. Register of wounded and sick.*

Personnel regularly and exclusively engaged in the running and administration of civil hospitals, including the personnel engaged in the search for, removal, transporting of and caring for wounded and sick civilians, the infirm and maternity cases, shall be respected and protected.

In occupied territory and in zones of military operations, the above personnel shall be recognizable by means of an identity card certifying their status, provided with the photograph of the holder and embossed with the stamp of the responsible authority, and also by means of a stamped, water-resistant armband which they shall wear on the left arm during the carrying out of their duties. This armband shall be issued by the responsible authorities and bear the emblem provided for in Article X of the 1949 Geneva Convention for the Relief of the Wounded and Sick in the Armed Forces in the Field.

The management of each hospital shall at all times hold at the disposal of the competent national or occupying authorities an up-to-date list of their personnel.

**Article 19.** *Amdt. Belgium.* 5.V.1949. See Annex No. **211**.

**Article 18.** *Amdt. Plen. Pakistan, United Kingdom, United States of America.* See Annex No. **214**

**Article 19A.** *Amdt. Plen. Pakistan, United Kingdom, United States of America.* See Annex No. **214**

<b>Article 19A.</b> <i>Text adopted by the Drafting Committee</i> . . . . .	<b>219</b>
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*Hospital transports*

Transport vehicles regularly and exclusively engaged in the transport of wounded and sick civilians, the infirm and maternity cases, shall in no circumstances be attacked but shall at all times be respected and protected by the Parties to the conflict. In occupied territory and in zones of military operations, they shall be recognizable.

\* The majority of the Drafting Committee has decided to propose the transfer of this Article as amended to Part III, Section III.

The minority of the Drafting Committee, while agreeing to paragraphs 1 and 2 above and to the transfer of the Article to Part III, Section III, proposes another text for paragraph 3. This text reads as follows:

"So far as the material and stores of civilian hospitals are concerned, the right of requisition recognized for belligerents by the laws and customs of war shall not be exercised except in case of urgent necessity, and only after the welfare of the patients has been ensured."

The following delegations voted for the minority text: United States of America, United Kingdom, Canada.

- (a) by means of a document issued by the responsible authorities certifying for what use they are reserved and indicating clearly that the vehicle may be used for no purpose other than those specified in this Article;
- (b) by the display of the distinctive emblem provided for in Article 10 of the 1949 Geneva Convention for the Relief of Wounded and Sick in the Armed Forces in the Field.

Such vehicles may be subject to inspection by representatives of the Protecting Power.

Any such vehicles falling into the power of the adverse Party shall be subject to the laws of war, on condition that the capturing belligerent on all occasions shall ensure the care of the afore-mentioned persons whom they contain.

**Article 19B. Amdt. Plen. Australia. 4.VIII.1949 . . . . . 220**

“Aircraft exclusively employed for the removal of wounded and sick civilians, the infirm and maternity cases or for the transport of medical personnel and equipment shall not be attacked, but shall be respected while flying at heights, time and on routes specifically agreed upon between all the Parties to the conflict concerned.

They may be marked with the distinctive emblem provided for in Article 10 of the Geneva Convention for the Relief of Wounded and Sick in Armed Forces in the Field.

Unless agreed otherwise flights over enemy or enemy occupied territory are prohibited.

Such aircraft shall obey every summons to land. In the event of a landing thus imposed, the aircraft with its occupants may continue its flight after examination, if any.”

*Note.* — Article 19A of the Civilians Convention does not provide protection for aerial transport of wounded and sick civilians, the infirm and maternity cases, or medical personnel and equipment. No other Article in this Convention as adopted by Committee III or in Plenary Session appears to provide such protection. Having regard to the great advancement being achieved throughout the world in providing such humanitarian services, the Australian Delegation considers such services should be protected, and that the lack of protection is an omission which should be *rectified*. Without such protection highly organized services such as the Flying Doctor Service established to provide rapid medical attention in out-lying districts, would, on the outbreak of hostilities, have to be discontinued, thereby depriving the persons intended to benefit from such service at the time when their need for such services is greatest.

The above suggested Article is based on Article 29 of the Convention for the Relief of Wounded and Sick or Armed Forces in the Field as adopted and it is suggested that this new Article should immediately follow Article 19A in the Civilians Convention.

**Article 20. Amdt. Delegation of the United States of America. 30.IV.1949 . . . . . 221**

Delete and substitute the following:

“The Contracting Parties shall endeavour to allow the free passage of such consignments of medical and hospital stores as are necessary for civilians of another Contracting Party, even if the latter is their adversary. They shall be guided likewise with respect to shipments of foodstuffs, clothing and tonics intended for children under fifteen and expectant mothers.

The Power which allows the passage of such supplies may make such permission conditional to the fact that the distribution to the persons benefited thereby is made under the supervision of the Protecting Powers, and that the persons benefited perform no work of a military character.

Such shipments shall be forwarded as rapidly as possible and may be checked by the Power which permits such consignments.”

**Article 20. Letter International Union for Child Welfare. See Annex No. 200.**

**Article 20.** *Text proposed by the Minority (U.S.S.R.) of the Drafting Committee . . . . .* **222**

*Dispatch of medicaments, foodstuffs and tonics*

The Contracting States shall allow the free passage of all consignments of medical and hospital stores, and of objects necessary for religious services, intended for another Contracting State, even if that State is their adversary.

They shall also allow the free passage of all shipments of foodstuffs, clothing and tonics intended for children of under fifteen and for expectant mothers and maternity cases. The Power which allows the free passage of foodstuffs, clothing and tonics may make such permission conditional to the fact that the distribution to the persons benefited thereby is made under the supervision of the Protecting Powers.

Such shipments shall be forwarded as rapidly as possible and may be checked by the Power which permits the free passage of such shipments.

*Note.* — The Committee reserves the right to find a better word than “tonics” which should be the equivalent of the French “fortifiants”.

**Article 20.** *Text adopted by the Majority of the Drafting Committee (Canada, United States of America, France, Norway, United Kingdom, Switzerland). 4.VII.1949 . . . . .* **223**

*Dispatch of medicaments, foodstuffs and tonics*

Each Contracting Party shall allow the free passage of all consignments of medical and hospital stores and objects necessary for religious services intended only for civilians of another Contracting Party, even if the latter is its adversary. It shall likewise permit the free passage of all consignments of essential foodstuffs, clothing and tonics intended for children under fifteen, expectant mothers and maternity cases.

The obligation of a Contracting Party to allow the free passage of the consignments indicated in the preceding paragraph is subject to the condition that this Party is satisfied that there are no serious reasons for fearing:

- (a) that the consignments may be diverted from their destination, or
- (b) that the control may not be effective, or
- (c) that a definite advantage may accrue to the military efforts or economy of the enemy through the substitution of the above mentioned consignments for goods which would otherwise be provided or produced by the enemy or through the release of such material, services or facilities as would otherwise be required for the production of such goods.

The Power which allows the passage of the consignments indicated in the first paragraph of this Article may make such permission conditional on the distribution to the persons benefited thereby being made under the local supervision of the Protecting Powers.

Such consignments shall be forwarded as rapidly as possible, and the Power which permits the free passage of them shall have the right to prescribe the technical arrangements under which their passage is allowed.

*Note* — The Committee reserves the right to find a better word than “tonics” which should be the equivalent of the French “fortifiants”.

**Article 21.** *Letter International Union for Child Welfare.* See Annex No. 200.

**Article 21\*.** *Text adopted by the Drafting Committee . . . . .* **224**

*Special Measures on behalf of children*

The Parties to the conflict shall take the necessary measures to prevent children under fifteen who are orphaned or separated from their families as a result of the war, from being

\* The minority of the Drafting Committee recommends to Committee III the transfer of the above Article to Part III, Section II.

The following Delegations voted for the minority text: United Kingdom, Canada, United States of America.

left to their own resources, and to *facilitate* their maintenance, the exercise of their religion, and their education. Their education shall as far as possible be entrusted to persons of similar cultural tradition.

They shall facilitate the reception of such children in a neutral country for the duration of the conflict, with the consent of the Protecting Power if any.

They shall furthermore examine the desirability of identifying all children under twelve, either by the wearing of identity discs or by some other means.

**Article 22\*.** *Text adopted by the Drafting Committee.* 2.VI.1949 . . . . . **225**

*Right to Family News*

All protected persons shall be enabled to give news of a strictly personal nature to members of their families, wherever they may be, and to receive news from them. This correspondence shall be forwarded speedily and without undue delay.

If, as result of circumstances, it becomes difficult or impossible to exchange family correspondence by the ordinary post, the States concerned shall apply to a neutral intermediary, such as the Central Agency provided for in Article 124, and shall decide in consultation with it how to ensure the fulfilment of their obligations under the best possible conditions, in particular with the co-operation of the National Red Cross Societies.

If the Parties to the conflict deem it necessary to restrict family correspondence, such restrictions shall be confined to the compulsory use of standard forms containing twenty-five freely chosen words, and to the dispatch of only one of these forms a month.

**Article 23.** *Text adopted by the Drafting Committee.* 2.VI.1949. . . . . **226**

*Dispersed families*

Each Party to the conflict shall facilitate enquiries made by members of families dispersed owing to the war, with the object of renewing contact with one another and of meeting, if possible. It shall encourage, in particular, the work of agencies engaged on this task provided they are acceptable to it and conform to its security regulations.

**Article 23A.** *Text by the Minority of the Working Party entrusted with the study of Articles 123 to 127, for a new Article 23A.* 12.VII.1949. . . . . **227**

*Return to domicile, emigration*

The High Contracting Parties shall endeavour upon the close of hostilities or occupation, to facilitate the return to their residence or domicile, or the settlement in a new residence or domicile of all aliens who, as the result of war or occupation, are unable to live under normal conditions at the place where they may be.

They will facilitate the departure of these persons for another country, if they so desire, and will help them in obtaining for this purpose passports or equivalent documents.

*Note.* — The minority of the Working Party suggests to give to the provisions of Article 127 the number 23A.

**Article 25.** *Amdt. Canada.* 30.IV.1949 . . . . . **228**

(1) Substitute the following for the first paragraph:

“Protected persons are entitled, in all circumstances to respect for their persons and their honour. They shall at *all* times be humanely treated and *shall not be exposed to* acts of violence, or intimidation, *or to* insults and public curiosity.”

(2) Add the word “nationality” immediately after the word “race” in the second paragraph.

\* The majority of the Drafting Committee has proposed that this Article, as amended, be transferred to Part III, Section I.

<b>Article 25*</b> . <i>Text adopted by the Drafting Committee.</i> 2.VI.1949 . . . . .	<b>229</b>
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*Treatment. — I. General Remarks*

Protected persons are entitled, in all circumstances, to respect for their persons, their honour, their family rights, their religious convictions and practices, and their manners and customs. They shall at all times be humanely treated, and shall not be exposed to acts of violence or threats thereof or to insults or public curiosity.

Women shall be specially protected against any attacks on their honour, in particular against rape, enforced prostitution, or any form of indecent assault\*\*.

Without prejudice to the provisions relative to their state of health, age and sex, all protected persons shall be treated with the same consideration by the Party to the conflict in whose power they are, without any adverse discrimination founded, in particular, on race, religious beliefs or political opinions.

However, the Parties to the conflict may take such measures of control and security in regard to protected persons as may be necessary as a result of the war.

<b>Article 27.</b> <i>Amdts. United Kingdom.</i> 10.V.1949. . . . .	<b>230</b>
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(a) Delete first paragraph and insert the following in Article 27:

“Women are entitled to special protection against all attacks on their honour or dignity, in particular against rape, enforced prostitution, or any form of indecent assault.”

(b) Delete second and third paragraphs and substitute the following:

(i) *In Part III Section II* (at the end of Article 35)

“Children under fifteen, expectant mothers and mothers of children under seven shall, in particular, benefit from such preferential treatment, particularly as respects food, medical care, and protection against the effects of war, as may be afforded to those classes among the local population.”

(ii) *In Part III Section III* (at the end of Article 46)

“The Occupying Power shall not impair the continuance of any preferential measures in regard to food, medical care and protection against the effects of war which may have been adopted prior to the occupation in favour of children under fifteen, expectant mothers and mothers of children under seven.”

**Article 27.** *Letter International Union for Child Welfare.* See Annex No. 200.

<b>Article 29A.</b> <i>Amdt. U.S.S.R.</i> 14.VI.1949. . . . .	<b>231</b>
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The Contracting States undertake to prohibit, and to consider as a serious crime, all murder, torture, maltreatment, mutilation, medical or scientific experiments not necessitated by medical treatment, as also all other means of exterminating the civilian population.

Furthermore, all other measures of brutality used against protected persons in the hands of the Contracting Parties are prohibited, whether applied by civilian or military agents.

<b>Article 29A.</b> <i>Text proposed by the Majority of Drafting Committee.</i> 7.VI.1949. . . . .	<b>232</b>
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The Contracting States specifically agree that each of them is prohibited from taking any measure aiming at the physical suffering or extermination of protected persons in their

\* The Minority of the Drafting Committee proposed that no change should be made in the second sentence of the first paragraph of the Stockholm wording. The following Delegations voted for the minority text: France, Norway, U.S.S.R. The Drafting Committee is of the opinion that this Article should be placed before Article 24.

\*\* This paragraph is the first paragraph of Article 27 of the Stockholm text as amended by the Drafting Committee.

hands. This prohibition covers not only murder, torture, corporal punishments, mutilation and medical treatment of a protected person, but also any other measures of brutality whether applied by civilian or military agents.

**Article 30. Amdt. Canada. 13.V.1949 . . . . . 233**

Add a third paragraph as follows:

“This Article relates only to the duties of a Contracting Party towards protected persons in its territory or in territory occupied by it, and towards the property of individual protected persons therein.”

The purpose of the amendment is to make it clear that this Article is not concerned with the destruction of property of protected persons in the course of invasion or by air bombardment, and is not concerned with property not belonging to individual protected persons.

The Canadian Delegation submits that this Convention (except for Part II) should deal only with protected persons in the power of a Contracting Party, i.e. protected persons on the territory of that Party or on the territory occupied by that Party.

**Article 30\*. Text presented by the Delegation of the U.S.S.R. (called text of the Minority). 7.VI.1949 . . . . . 234**

*Individual responsibility, collective penalties, pillage reprisals*

No protected person may be punished for an offence he or she has not personally committed. Collective penalties and likewise all measures of intimidation or of terrorism are prohibited.

Pillage is prohibited.

Measures of reprisals against protected persons and their property are prohibited. Any destruction of personal and real property belonging to private persons or to the State as also those belonging to social and co-operative organizations, which is not made absolutely necessary by military operations, is prohibited.

**Article 30\*\*. Text submitted by the Majority of the Drafting Committee. 7.V.1949. . . . . 235**

*Individual responsibility, collective penalties, pillage, reprisals.*

No protected person may be punished for an offence he or she has not personally committed. Collective penalties and likewise all measures of intimidation or of terrorism are prohibited.

Pillage is prohibited.

Measures of reprisal against protected persons and their property are prohibited.

**Article 31A. Amdt. Belgium. 9.V.1949. . . . . 236**

Articles 29, 30 and 31 of the Convention contain guarantees in favour of protected persons.

\* At the request of the Delegation of Canada, the Drafting Committee did not take any decision on the amendment it submitted. The Delegation of Canada reserved the right to propose the adoption of its amendment to Committee III should the text of Article 30, adopted by the Majority of the Drafting Committee, not be ratified by Committee III.

\*\* At the request of the Delegation of Canada, the Drafting Committee did not take any decision on the amendment it submitted. The Delegation of Canada reserved the right to propose the adoption of its amendment to Committee III should the text of Article 30, adopted by the Majority of the Drafting Committee, not be ratified by Committee III.

The Majority of the Drafting Committee decided to delete that part of the second sentence of the second paragraph of the Stockholm text which refers to the destruction of property for, in its opinion, the principle contained therein is applicable only in occupied territory. It has decided to enunciate this principle in a new Article (48A) the adoption of which it proposes to the Committee.

In view of the painful experience endured by countries which suffered occupation, the present provisions would show an unfortunate gap unless reference were made to the special situation of civil and public servants.

It is a fact that the enemy frequently practised harsh treatment, either individually or collectively, in regard to this category of persons, who nevertheless continued their patient labour under difficult conditions, in order that the continuation of public services which were essential to the economic and social life of their country might be ensured, even under restrictive conditions. The enemy's object was indubitably to intimidate all civil servants with a view to forcing them to adopt a policy in favour of the occupying authorities, or to create vacancies which could be filled by personnel of the "New Order".

With other aims and for reasons which were quite irrelevant to the welfare of the country under occupation, the enemy issued regulations to the effect that a civil servant's resignation of his post should be considered as a breach of the law.

The Belgian Delegation is of the opinion that the new Convention should make it impossible in future to resort to insidious and arbitrary measures of the kind which are inspired by purely political motives.

The Delegation proposed the unanimous adoption of the following amendment, which in no way diminishes the responsibility of the persons in question towards their national authorities.

*Article 31A*

"Any modification of the status of the personnel of public services by the Occupying Power is prohibited and no measures of coercion or discrimination may be taken against members of such services who resign their functions for patriotic reasons."

**Article 31A.** *Amdt. Belgium. 23.v.1949* . . . . . **237**

*Addendum*

Complete the text of the Belgian amendment of 9 May 1949 as follows:

"The same guarantees shall apply to members of the legal profession and of the Public Prosecutor's office or of equivalent jurisdictions, and likewise to the personnel attached to the said organizations, whose independence must be fully guaranteed".

This amendment, thus completed, might possibly be inserted in Part III.

**Article 32.** *Amdt. Belgium. 5.v.1949* . . . . . **238**

In certain countries the setting up of exceptional courts is opposed, if not by the Constitution or by ancient tradition, at any rate by legislation. This would appear to be the nature of the tribunals mentioned in Article 32. At first sight the solution would appear to consist in extending the powers of existing regular jurisdictions.

Nevertheless the smooth operation of any judicial system worthy of the name is subordinate to the observance of rules of procedure which may retard immediate decisions.

It therefore appears necessary to find another solution.

In the case under consideration, the interest of protected persons and of the Detaining Powers demands swift action; on the other hand, the decisions arrived at are liable to revision.

The aim might be reached without causing a curtailment of guarantees for the interested Parties if the cognizance of the cases concerned could rest with a committee or administrative board acting directly under Government authority qualified to give the necessary directives and take full and entire responsibility for any action it might initiate. In questions concerning the security of the State, decisions taken by the Government are sovereign acts which that government alone can carry out.

There is nothing to prevent the setting up of a set of regulations for the working of such committees or administrative boards, which would be of such a nature as to prevent abuses while ensuring the expeditious conduct of business.

In these circumstances it would be possible, to substitute in Article 32, paragraph 3 for "exceptional courts" the terms "administrative committee" or "administrative body". A corresponding amendment should be made in Article 40.

**Article 32. Amdt. Canada. 30.IV.1949. . . . . 239**

(1) Substitute the following for the first sentence of the first paragraph:

"All aliens, whether of enemy nationality or not, of uncertain nationality or stateless, who may desire to leave the territory at the outset of, or during a conflict, shall be entitled to do so, subject to *prior authorization by the Detaining Power and to the provisions of the following paragraph.*"

(2) Substitute the following for the second paragraph:

"Persons whose departure the Detaining Power may reasonably oppose on urgent grounds of security, and *persons whose repatriation would give aid or assistance to the enemy,* may be refused permission to leave."

(3) Delete the 3rd, 4th, 5th and 6th paragraphs.

**Article 32. Amdt. United States of America. 4.V.1949 . . . . . 240**

Delete and substitute the following:

"All aliens, whether of enemy nationality or not, of uncertain nationality or stateless, who may desire to leave the territory at the outset of, or during a conflict, shall be entitled to do so, provided that they can establish to the satisfaction of the administrative agencies of the Detaining Power that their departure is not contrary to the national interests of the said Power. The applications of such persons to leave shall be determined in accordance with regularly established procedures. Those persons permitted to leave may take with them such funds, effects and articles of personal use as may be necessary for their journey.

"If the Detaining Power decides that any such person shall not be allowed to leave, it shall also decide whether he or she shall be left at liberty, placed in assigned residence or interned, in conformity with Articles 38, 39 and 40. If the person concerned has been placed in assigned residence or interned, the Detaining Power shall periodically, and at least twice yearly, give consideration to his or her case, with a view to the favourable amendment of the initial decision, if circumstances permit.

"Upon request, representatives of the Protecting Power shall, unless reasons of security prevent, be furnished with the reasons for refusal of any requested for permission to leave the territory and be given, as expeditiously as possible, the names of all persons who have been denied permission to leave."

**Article 32<sup>3</sup>. Extract from the Memorandum by the Government of Finland (Document No. 9) 241**

Might it be advisable, in order to render the safeguard more effective, to insert the words "and impartial" between "regular" and "proceedings"?

**Article 32. Extract from the Memorandum by the Italian Government (Document No. 10) . . . 242**

*Repatriation and retention*

The Italian Delegation, with a view to extending the legal guarantees provided by Art. 32 to protected persons, suggests that the possibility of recourse to an appeal tribunal

should be explicitly laid down. The Italian Delegation therefore proposes that Article 32, paragraph 4, should be worded as follows:

“After the tribunal decided that the protected persons shall not be allowed to leave, it shall also decide whether he or she shall be left at liberty, placed in assigned residence or interned, in conformity with Articles 38, 39 and 40. Against the decisions taken by the special tribunals for aliens the person in question has the right to appeal to a superior court. If the persons concerned . . . ”.

This proposal was adopted by the International Conference of the Red Cross at Stockholm (see “Summary of the debates of the Sub-Committee of the Legal Committee” p. 59). This proposal was not taken into account in the fresh draft of Article 32.

**Articles 32 to 40. Memorandum I.R.O. 9.V.1949 . . . . . 243**

1. The provisions figuring in the Articles referred to above are of special importance for certain categories of persons subject to the mandate of the International Refugees Organization.

During the recent hostilities many persons at present dependent on the International Refugees Organization mandate were the object of exceptional security measures including more particularly, internment.

Furthermore, the problem of repatriation raises various special questions of principle and of a practical nature with reference to persons who no longer enjoy the protection of the Government of their country of origin.

The Director General therefore considers that it is his duty to draw the attention of the Conference to the particularly precarious position in which persons dependent on the mandate would be liable to find themselves in the event of a fresh conflict.

2. Re Article 32

(a) The first sentence of paragraph 1 grants all aliens the right to leave the territory at the outset of, or during the course of hostilities. From the drafting point of view, it should be noticed that the words following the subject, “All aliens”, which at present read “of enemy nationality or not, of uncertain nationality or stateless” should be replaced by the words “of enemy nationality or not, of no or uncertain nationality whether enjoying or not the protection of a Government.”

(b) Furthermore, it might be expedient to insert in Article 32, paragraph 1, first sentence, a new sentence intended to give practical effect to the principle enunciated in the first sentence. In the light of the practical experience gained during the last war, it is essential that the contracting States should take appropriate measures to apply this principle, e.g. by furnishing the persons in question with the necessary documents and permits (travel vouchers, visas, etc.) to enable them to proceed to another country. For this purpose the following wording is suggested:

“Without prejudice to exceptional security measures, the contracting States shall grant all necessary facilities for the purpose of enabling the above-mentioned persons to proceed to another country.”

(c) In the Draft Convention submitted by the I.C.R.C. to the XVIIth International Red Cross Conference held at Stockholm, Article 32 contained a provision worded as follows:

“No person shall be repatriated against his will.”

This provision, according to the Minutes of the sub-Committee of the Stockholm Conference, was only deleted with a view to being embodied in another Article; but the provision in question does not appear in any Article of the Draft submitted to the Diplomatic Conference. It would therefore appear expedient to reinstate the provision in Article 32 or elsewhere. This would enable the solutions proposed in the various Conventions to be coordinated with the principles set forth in the Resolution adopted by the General Assembly

of the United Nations on 12 February, 1946 (Document A. 45), the relevant passage of which is as follows:

“No refugee or displaced person who, entirely of his own free will, has finally and definitely, with full knowledge of the situation and the information furnished by the Government of his country of origin, has adduced satisfactory reasons for not returning to his own country . . . . shall not be compelled to return to his country of origin.”

Should the Conference not wish to reinstate the text submitted by the I.C.R.C. at Stockholm, it would nevertheless appear expedient to add the following sentence:

“Refugees, persons at present dependent on the mandate of the International Refugees Organization, or subsequently placed under the mandate of a body responsible for the protection of certain classes of stateless persons, shall not be repatriated to their country of origin against their will.”

3. Article 35 regulates the position of persons who have not been repatriated, while Articles 38-40 refer more especially to certain measures of control: assigned residence, compulsory internment, or voluntary internment. These Articles treat persons of foreign nationality on the same footing, whether they are of enemy nationality or another nationality, or undefined nationality or stateless.

It cannot, however, be overlooked that during the last two wars, distinctions have been made by States between the foreign aliens and friendly aliens, and that States have adopted more rigorous security measures applicable to enemy aliens. This raises the whole problem of refugees originating from enemy countries, but not enjoying the protection of the Government of their country of origin. It may be recalled that a number of States during the last war took measures for the purpose of exempting this category of persons from the effect of measures applicable to enemy aliens. It is, after all, legitimate to assume that enemy nationals enjoying the protection of their own Government sympathize with their own country, and therefore constitute a danger to the security of the State in which they are resident. On the other hand, this assumption is unfounded as regards nationals of a neutral country or refugees who are stateless *de jure* or *de facto*, even should the latter originate from a country at war with the country of residence.

In the course of the last war, many States recognized that there was justification for making this distinction. It is therefore suggested that refugees originating from an enemy country should not be placed on the same footing as enemy aliens.

From what has been stated above it follows that if measures are taken which go beyond the scope of the provisions of Article 35, and intended to apply without distinction to all enemy aliens, such measures should not be applied automatically to refugees originating from an enemy country, merely by reason of their origin.

It must of course be recognized that this category may include persons who, by reason of their political convictions or activities, constitute a danger to the security of the State in question. Nevertheless, as it is reasonable to presume that refugees are hostile to the Government of, and to the regime prevailing in, the State from which they originate, it would appear equitable not to prescribe internment for them except in virtue of *individual* decisions based on acts or activities constituting evidence that their attitude is favourable to the enemy country.

Taking the above considerations into account, it is proposed to insert into Article 38 a provision to the following effect:

“The special security measures applicable to the nationals of an enemy country shall not be applied automatically to refugees of the country in question, merely on the ground of such origin.

The refugees in question shall only be subjected to assigned residence or internment by individual decision which shall specify the grounds on which such exceptional security measures have been taken.”

<b>Article 32*.</b> <i>Text adopted by the Drafting Committee.</i> 15.VI.1949 . . . . .	<b>244</b>
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*Repatriation and detention*

All protected persons who may desire to leave the territory at the outset of, or during a conflict, shall be entitled to do so, unless their departure is contrary to the national interests of the State. The applications of such persons to leave shall be determined in accordance with regularly established procedures and the decision shall be taken as rapidly as possible. These persons permitted to leave may provide themselves with the necessary funds for their journey and take with them a reasonable amount of their effects and articles of personal use.

If any such person is refused permission to leave the territory, he shall be entitled to have such refusal reconsidered by an appropriate court or administrative board designated by the Detaining Power for that purpose.

Upon request, representatives of the Protecting Power shall, unless reasons of security prevent it, or the persons concerned object, be furnished with the reasons for refusal of any request for permission to leave the territory and be given, as expeditiously as possible, the names of all persons who have been denied permission to leave.

<b>Article 33.</b> <i>Amdt. United States of America.</i> 4.IV.1949. . . . .	<b>245</b>
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Delete and substitute the following:

“Departures permitted under the foregoing Article shall be carried out in satisfactory conditions as regards security, hygiene, healthfulness and food. All costs in connection therewith from the point of exit in the territory of the Detaining Power shall be borne by the country of destination, or in case of accommodation in a neutral country, by the Power whose nationals are benefitted. The practical details of such movements may, if necessary, be settled by particular agreements between the Powers concerned.

The foregoing shall not prejudice such special agreements as may be concluded between belligerents concerning the exchange and repatriation of their nationals in enemy hands.”

<b>Article 34.</b> <i>Amdt. United States of America.</i> 4.V.1949. . . . .	<b>246</b>
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Delete and substitute the following:

“Protected persons who are confined pending proceedings or subject to a sentence involving loss of liberty, shall during their confinement, be humanely treated and, on their liberation, fully benefit by the provisions of the present Convention.

“As soon as they are released they may ask to leave the territory, in conformity with the foregoing Articles.”

<b>Article 34.</b> <i>Text adopted by the Drafting Committee.</i> 16.VI.1949. . . . .	<b>247</b>
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*Detained persons*

Protected persons who are confined pending proceedings or subject to a sentence involving loss of liberty, shall, during their confinement, be humanely treated.

As soon as they are released, they may ask to leave the territory in conformity with the foregoing Articles.

\* The Drafting Committee reserves an opinion of the expression “All protected persons” until after the final drafting of Article 3.

Should the Drafting Committee not adopt the Stockholm text of Article 38, the Delegation of the U.S.S.R. wishes the above text to be amplified by the addition of a sentence laying down the principle contained in the first sentence of the fourth paragraph of the Stockholm text of Article 32.

The Delegation of the U.S.S.R. reserves its opinion concerning the following phrase “or the persons concerned object”, which appears in the third paragraph.

This text was unanimously adopted by the Drafting Committee. Should Committee III not approve it, the Delegation of Canada will maintain its amendment.

**Article 35.** *Aide Memoire. I. R. O.* See Annex No. 243.

**Article 35\*.** *Text adopted by the Drafting Committee. 17.VI.1949.* . . . . . **248**

*Persons not repatriated. — I. General Remarks*

With the exception of special measures authorized by the present Convention, in particular in Articles 25 and 38, the situation of protected persons shall continue to be regulated, in principle, by the provisions concerning aliens in time of peace. In any case, the following rights shall be granted to them:

- (1) They shall be enabled to receive the individual or collective relief that may be sent to them.
- (2) They shall, if their state of health so requires, receive medical attention and hospital treatment to the same extent as the nationals of the State concerned.
- (3) They shall be allowed to practise their religion and to receive spiritual assistance from ministers of their faith.
- (4) If they reside in an area particularly exposed to the dangers of war, they shall be authorized to move from that area to the same extent as the nationals of the State concerned.
- (5) Children under 15, pregnant women and mothers of children under 7 shall benefit from any preferential treatment to the same extent as the nationals of the State concerned.

**Article 36.** *Extract from the Memorandum by the Italian Government (Document No. 10)* . . . . **249**

*Means of existence*

The Italian Delegation in view of the unfortunate position of persons who, as a result of the conflict, have lost the benefit of their property, or their gainful employment, proposes that Article 36 should be worded as follows:

“Protected persons, who, as a result of the war, have lost their gainful employment, shall be granted the opportunity to meet the cost of their maintenance either by finding paid employment under the provisions of Article 37, or by being given the opportunity of obtaining the payment of at least part of the income from their property, or be receiving allowances from the power in whose hands they may be. Protected persons...”

**Article 36\*\*.** *Text adopted by the Drafting Committee. 17.VI.1949.* . . . . . **250**

*II. Means of Existence*

Protected persons who, as a result of the war, have lost their gainful employment, shall be granted the opportunity to find paid employment. That opportunity shall, subject

\* The above first paragraph was adopted unanimously by the members of the Drafting Committee present (6 votes to 0; Norway being represented by an observer only did not vote).

Sub-paragraph 1 above was also adopted unanimously by the delegates present.

Sub-paragraph 2 was adopted by 5 votes (Canada, France, United States of America, United Kingdom, Switzerland) to 1 (U.S.S.R.). The Delegation of the U.S.S.R. would have voted for this sub-paragraph 2 if the following words had been deleted: “to the same extent as the nationals of the State concerned”.

The Drafting Committee adopted sub-paragraph 3 by 5 votes (Canada, France, United States of America, United Kingdom, Switzerland) to 0. The Delegation of the U.S.S.R. abstained from voting.

Sub-paragraph 4 was adopted unanimously by the delegates present. The Delegation of the U.S.S.R. considered, however, that this provision should form part of Article 24.

Sub-paragraph 5 was adopted unanimously by the delegates present. Whilst expressing its approval of the text of sub-paragraph 5, the Delegation of the U.S.S.R. stated, however, that, in its opinion, this provision should appear in Article 27, as was the case in the Stockholm text, and that Article 27 should remain in its place.

\*\* This text was adopted unanimously by the members of the Drafting Committee present (Canada, United States of America, France, United Kingdom, Switzerland, U.S.S.R.). The Delegation of the U.S.S.R., however, reserved an expression of opinion on this Article.

to security considerations and to the provisions of Article 37, be equal to that enjoyed by the nationals of the Detaining Power.

Where a Detaining Power applies to a protected person methods of control which result in his being unable to support himself, and especially if such a person is prevented for reasons of security from finding paid employment on reasonable conditions, the Detaining Power shall ensure his support and that of his dependants.

Protected persons may in any case receive allowances from their home country, their Protecting Power, or the relief societies referred to in Article 28.

**Article 37. Amdt. Canada. 30.IV.1949 . . . . . 251**

Substitute the following for the first paragraph:

“When employment is found for protected persons by the Power in whose hands they may be, these persons may be required to do only such work as is normally necessary for the feeding, sheltering, clothing, transportation and health of human beings, but they may not be employed in work that is moreover of value in assisting the conduct of active military operations.”

**Article 37. Amdt. Canada. 13.V.1949 . . . . . 252**

It appears to the Canadian Delegation that the restriction contained in this Article on the right of a Government to direct protected persons into employment is not reasonable in the case of allied aliens and has little to support it in the case of neutral aliens. Canada is entirely in favour of Article 37 so far as enemy aliens are concerned.

The Canadian Delegation thinks that neutral and particularly allied aliens, who choose to live in a country not their own, should be willing to take their chances with the nationals of that country in the matter of compulsory employment in time of war.

The Canadian Delegation therefore proposes that the following sentence be added to the first paragraph of Article 37:

“The restrictions in the preceding sentence shall not apply to allied aliens and neutral aliens; however, if they are legally compelled to work, it shall be on the same basis as nationals of the country.”

**Article 37. Amdt. United States of America. 16.V.1949 . . . . . 253**

1. The United States of America withdraw their earlier amendment.
2. Delete paragraph 1 and substitute the following:

“Protected persons who are enemy aliens may only be required to do work which is normally necessary for the feeding, sheltering, clothing, transportation and health of human beings, and which is not otherwise of value in assisting the conduct of active belligerent operations. Protected persons who are not enemy aliens may be required to do any work under the same conditions as the citizens of the Detaining Power.”

**Article 37. Extract from the Document presented by the International Labour Organization. (Document No. 7) . . . . . 254**

Work of aliens in the territory of a Party to the conflict.

Article 37 of the Draft Convention contains the following provisions relating to the conditions of work of aliens in the territory of a Party to the conflict:

“Protected Persons shall not be required to work in occupations other than those which are normally necessary to secure the feeding, housing, clothing, trans-

port and health of human beings and shall not be employed in occupations which, in addition, are useful to the conduct of active military operations.

Should the above provisions be infringed, protected persons shall be allowed to exercise their right of complaint, in conformity with Article 28."

This provision aims at establishing the principle that a Party to a conflict can require alien civilians in this territory to work only in certain kinds of occupations and only under certain conditions. As in the case of prisoners of war (this provision is similar to Article 42 of the Prisoners of War Convention) the intention is to avoid the employment of civilians on work in direct connection with the conduct of the war.

It should be noted however that the text approved at Stockholm, while providing that protected persons can be required to work in certain defined occupations, does not define the conditions under which such persons shall carry out their work. It would seem desirable, in the interest of the workers of the country concerned as well as of the persons protected by the Convention, to indicate that the latter should enjoy conditions of work similar to those which apply to the nationals of the State concerned. If this proposal should meet with the approval of the Governments, it would seem appropriate to complete Article 37 of the text approved at Stockholm by adding, between paragraphs 1 and 2, a new paragraph which would read as follows:

"Protected persons shall enjoy the same conditions of work as those which apply to national workers, particularly in regard to the age of admission to employment, employment of women and maternity protection, physical fitness for employment, wages, hours of work, vocational training, prevention of accidents and of occupational diseases, workmen's compensation and assistance and shall benefit from the relevant provisions of the national legislation concerning social security (sickness, maternity, occupational accidents and diseases, invalidity, old age and survivors' unemployment, family allowances)."

**Article 37\*.** *Text adopted by the Drafting Committee.* 27.VI.1949. . . . . 255

### III. Employment

In cases where citizens of a Party to the conflict are required to do compulsory labour, protected persons may also be compelled to do work but only such work as is normally necessary for the feeding, sheltering, clothing, transportation and health of human beings; but they may not be compelled to do work that is otherwise of value in assisting the conduct of military operations.

If the above provisions are infringed, the protected persons shall be allowed to exercise their right of complaint, in conformity with Article 28.

**Article 37.** *Amdt. Belgium.* 4.VII.1949. . . . . 256

Replace the first paragraph of the text, adopted by the Drafting Committee, by the following:

- (3) Protected persons may only be compelled to work to the same extent as nationals of the Party to the conflict in whose territory they are.
- (2) Moreover, if protected persons are of enemy nationality they may only be compelled to do work which is not directly related to the conduct of military operations.
- (3) In the above mentioned cases, protected persons shall have the benefit of the same working conditions and of the same safeguards as national workers, in particular as regards wages, hours of labours, outfit, previous training and insurance against working accidents.

\* The parts of the above text which are in conformity with the Stockholm text were adopted by 4 votes (France, Norway, Switzerland, U.S.S.R.) to 3 (Canada, United Kingdom, United States of America).

The Stockholm text has been amended on the basis of the Indian amendment and the Italian amendment. Both these amendments were adopted by 5 votes to 0. The Canadian Delegation abstained from voting on these amendments as it is in principle against the Stockholm text.

**Article 37.** *Amdt. United Kingdom to text adopted by Drafting Committee 30.VI.1949.* . . . . . **257**

Delete first paragraph and substitute the following:

“Protected persons may only be compelled to work to the same extent as nationals of the party to the conflict in whose territory they are and provided that for such work they have the benefit of the same working conditions as such nationals, especially as regards wages, hours of labour, outfit, previous training, and insurance against working accidents. Moreover, protected persons who are enemy aliens may only be compelled to do work which is necessary to ensure the feeding, sheltering, clothing, transport and health of human beings, and which is not directly related to the conduct of military operations.”

**Article 38.** *Amdts. Plen. United States of America. 29.VI.1949.* . . . . . **258**

*Amendment No. 1*

In the first sentence delete “by way of exception”.

*Explanation.* — This phrase is unnecessary in view of amendment No. 3 below, the proposed amendment to Article 39 and the wording of Article 40. It first occurred in the Tokyo Draft which contemplated the relatively mild measure of controlled (*surveillée*) residence as opposed to assigned (*forcée*) residence.

*Amendment No. 2*

Delete the second sentence reading “Each decision shall be taken individually”.

*Explanation.* — The last sentence of Article 38 was added by Committee III by a vote of 15 to 13 with 8 abstentions. If it requires reconsideration of the cases of individuals who have already been placed in internment or assigned residence, it is superfluous because Article 40 provides in detail for such reconsideration by a court or administrative board. On the other hand, if the last sentence of Article 38 requires individual consideration of cases prior to ordering internment or assigned residence, it is impractical; in a time of great emergency, as when a country is threatened with invasion, the government may feel compelled to act immediately to prevent potential hostile action by enemy aliens. All agree that there should be a careful reconsideration of such cases to correct arbitrary or hasty action. This purpose is achieved fully by Article 40 without endangering the security of States. For these reasons, the United States Delegation urges the deletion of the last sentence of Article 38.

*Amendment No. 3*

Add a new paragraph reading:

“In applying the provisions of Article 36, second paragraph, to the cases of persons required to leave their usual places of residence by virtue of a decision placing them in assigned residence elsewhere, the Detaining Power shall be guided as closely as possible by standards of welfare set forth in Part III, Section IV of this Convention.”

*Explanation.* — Controlled residence is the most usual form of control over aliens in wartime. It normally requires that the alien remains in his usual place of residence and obtains permission before leaving it for some other place. It may also take the form of barring certain classes or nationalities of aliens from certain well-defined zones while affording them full liberty to chose their place of residence anywhere else in the country. Assigned residence, on the other hand, has been practised by only a few countries. In them, aliens have been directed to proceed to specified remote localities and to remain there. The situation in such localities and the lack of provision for the accommodation or support of the aliens has been such as to afford the countries concerned all the advantages of internment without the corresponding responsibilities or expense. The foregoing new paragraph is deemed necessary to make it clear that a country resorting to the practice of assigned residence cannot thereby avoid responsibility for the consequences of its action.

**Articles 38 to 40.** *Aide Memoire I.R.O.* See Annex No. 243.

**Article 38.** *Amdt. United Kingdom.* 16.V.1949. . . . . **259**

Delete and substitute the following:

“Every measure of control applied to a protected person shall exercised in conformity with the provisions of the present Convention. The most severe measure of control which may be applied is internment.”

**Article 38\*.** *Text adopted by the Drafting Committee.* 23.VI.1949. . . . . **260**

*IV. Assigned Residence, Internment*

Should the Power in whose hands protected persons may consider the measures of control mentioned in the present Convention to be inadequate, it may not have recourse to any measure of control more severe than that of assigned residence or internment, in conformity with the provisions of Articles 39 and 40. Each decision shall be taken individually.

**Article 40.** *Amdts. Canada.* 30.IV.1949. . . . . **261**

Delete both paragraphs of this Article and substitute the following:

“Where the competent authorities of the Detaining Power have ordered retention of an alien or the internment of a protected person, they shall as soon as is practicable, inform the Protecting Power of the action taken and refer the retention or internment to an impartial Advisory Committee for advice as to whether it is reasonably advisable for the security of the Detaining Power. The competent authorities shall, not less frequently than once during each period of six months, cause the retention of an alien or the internment of a protected person to be referred to an impartial Advisory Committee for review as to whether the retention or internment continues to be reasonably advisable for the security of the Detaining Power.

In so far as the competent authorities of the Detaining Power consider they are able to do so consistently with the security of the Detaining Power they shall, in connection with any reference to an Advisory Committee, do the following things:

- (1) Inform the person retained or interned of the reason for his retention or detention;
- (2) accord him an opportunity to be heard in person or by counsel before the advisory committee to answer the reasons given;
- (3) furnish to the advisory committee the evidence upon which the competent authorities acted in providing for his retention or internment;
- (4) permit the Protecting Power to be represented at hearings of the Advisory Committee; and
- (5) give effect to the advice of the Advisory Committee.

The advisory committee shall consist of one or more persons of whom at least one has held or holds high judicial office.”

**Article 40.** *Aide Memoire. I.R.O.* See Annex No. 243.

\* The above text was adopted unanimously with the exception of the last sentence which was adopted by 4 votes (Canada, France, Norway, United States of America) to 2 (United Kingdom, Union of Soviet Socialist Republics).

	No.
<b>Article 40*</b> . <i>Text adopted by the Drafting Committee.</i> 13.VI.1949 . . . . .	<b>262</b>

*VI. Procedure of Internment*

Any protected person who has been interned or placed in assigned residence shall be entitled to have such action reconsidered by an appropriate court or administrative board designated by the Detaining Power for that purpose. If the internment or placing in assigned residence is maintained, the court or administrative board shall periodically, and at least twice yearly, give consideration to his or her case, with a view to the favourable amendment of the initial decision, if circumstances permit.

Unless the protected persons concerned object, the Detaining Power shall, as rapidly as possible, give the Protecting Power the names of any protected persons who have been interned or subjected to assigned residence, or who have been released from internment or assigned residence. The decisions of the courts or boards mentioned in the first paragraph shall also, subject to the same conditions, be notified as rapidly as possible to the Protecting Power.

<b>Article 40A**</b> . <i>Text adopted by the Drafting Committee.</i> 28.VI.1949 . . . . .	<b>263</b>
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In applying the measures of control mentioned in this Convention, the Detaining Power shall not treat, solely according to their nationality, *de jure* refugees who are enemy aliens and who do not, in fact, enjoy the protection of any government.

<b>Article 41</b> . <i>Amdt. Canada.</i> 24.V.1949 . . . . .	<b>264</b>
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(1) Substitute the following for the first paragraph:

“Protected persons shall not be transferred to a Power which is not Party to the Convention.”

(2) Substitute the following for the third paragraph:

“In cases of necessity protected persons may be transferred to a Power which is Party to the Convention, provided that the transferring Power has made certain that the Power to whom the protected persons are to be transferred is capable of carrying out the provisions of the Convention. Responsibility for the application of the Convention shall then rest with the Power to whom the protected persons are transferred.”

(3) Substitute the following for the fourth paragraph:

“No protected person shall be transferred to a country where he fears persecution for his political opinions or religious beliefs if he adduces satisfactory reasons for such fear”.

<b>Article 41<sup>4</sup></b> . <i>Amdt. Netherlands.</i> 29.IV.1949 . . . . .	<b>265</b>
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In view of the fact that, according to the present wording, protected persons might be transferred immediately after the cessation of hostilities or of occupation, and that such transfer might, at such a moment, place these persons in great difficulties, it would be preferable to substitute for the words “during hostilities or occupation” the words “as long as peace has not been concluded”.

\* The Delegation of the U.S.S.R. reserves its opinion concerning the following phrase which occurs in the second paragraph: “Unless the protected persons concerned object.”

The Drafting Committee adopted this text by six votes to nil. The Delegation of Canada abstained from voting. Should Committee III not approve this text, the Delegation of Canada will maintain its amendment.

\*\* The Drafting Committee adopted the above text by 6 votes (Canada, France, Norway, Switzerland, United Kingdom, United States of America) to 1 (Union of Soviet Socialist Republics). The Delegation of the U.S.S.R. considers that this Article should be deleted.

**Article 41\***. *Text adopted by the Drafting Committee.* 4.VII.1949 . . . . . **266**

*VII. Transfer to another Power*

Protected persons shall not be transferred to a Power which is not party to the Convention.

This provision shall in no way constitute an obstacle to the repatriation of protected persons, or to their return to their country of residence after the cessation of hostilities.

Protected persons may be transferred by the Detaining Power only to a Power which is a Party to the Convention and after the Detaining Power has satisfied itself of the willingness and ability of such transferee Power to apply the Convention. If protected persons are transferred under such circumstances, responsibility for the application of the Convention rests on the Power accepting them, while they are in its custody. Nevertheless, if that Power fails to carry out the provisions of the Convention in any important respect, the Power by which the protected persons were transferred shall, upon being so notified by the Protecting Power, take effective measures to correct the situation or shall request the return of the protected persons. Such request must be complied with.

In no circumstances shall a protected person be transferred to a country where he or she may have reason to fear persecution for his or her political opinions or religious beliefs.

The provisions of this Article do not constitute an obstacle to the extradition, in pursuance of extradition treaties concluded before the outbreak of hostilities, of protected persons accused of offences against ordinary criminal law.

**Article 43\*\***. *Text adopted by the Drafting Committee.* 6.VII.1949 . . . . . **267**

*Inviolability of rights*

Protected persons who may find themselves in occupied territories cannot in any case or in any manner whatsoever be deprived of the benefit of the present Convention, either by virtue of changes introduced as the result of the occupation into the institutions or government of the said territories, or by arrangements which may be concluded between the authorities of the occupied territories, and the Occupying Power.

Conversely, no provision in this Convention is intended to confer upon protected persons, including internees in occupied territories, a right to standards of living higher than those prevailing before the occupation began.

\* Third paragraph above was adopted by 6 votes (Canada, France, Norway, Switzerland, United Kingdom, United States of America) to 1 (U.S.S.R.). The Minority of the Drafting Committee (U.S.S.R.) wishes the second sentence of this paragraph to be replaced by the third paragraph of the Stockholm text which reads as follows:

“If they are transferred to a Power which is a Party to the Convention, the responsibility for the application of the Convention shall rest conjointly on the Power which transfers and the Power which receives them.”

Paragraph 4 was adopted by 6 votes (Canada, France, Norway, Switzerland, United Kingdom, United States of America) to 1 (U.S.S.R.).

The Delegate of the Union of Soviet Socialist Republics would have voted for this paragraph if the words “during hostilities or occupation”, which appear in the Stockholm text, had not been deleted. He deems it necessary to fix a period for the application of the Convention as far as this paragraph is concerned, and is against the application of the Convention for an indefinite period which, in his opinion, would be the result of the deletion of the words “during hostilities or occupation”. He therefore wishes the words “during hostilities or occupation” to be re-introduced into the above text.

Six delegates voted for the addition of the last paragraph (Canada, France, Norway, Switzerland, United Kingdom, United States of America) and one against (U.S.S.R.).

Three delegates (Canada, United Kingdom, United States of America) asked that deportation be mentioned as well as extradition and that the words „concluded before the outbreak of hostilities” be deleted.

This proposal was rejected by 3 votes (U.S.S.R., France, Norway) to 3 (Canada, United Kingdom, United States of America).

\*\* The Minority of the Drafting Committee (France, Switzerland, Union of Soviet Socialist Republics) proposes that the English text submitted to the Stockholm Conference, which appears on the left hand side of Document 4, page 19, should be substituted for paragraph 1 above.

The Minority of the Drafting Committee (Union of Soviet Socialist Republics) proposes the deletion of the second paragraph above.

	No.
<b>Article 44. <i>Amdt. China.</i> 14.V.1949 . . . . .</b>	<b>268</b>

The following words are meant for deletion:

“who are not nationals of the Power whose territory is occupied” between “persons” and “irrespective...”.

<b>Article 44*. <i>Text adopted by the Drafting Committee.</i> 28.VI.1949. . . . .</b>	<b>269</b>
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*Special cases of repatriation*

Protected persons not nationals of the Power whose territory is occupied, may avail themselves of the right to leave the territory subject to the provisions stipulated in Article 32, and decisions thereon shall be taken in accordance with the procedure which the Occupying Power shall establish in conformity with the said Article.

<b>Article 45. <i>Amdt. U.S.S.R.</i> 12.V.1949. . . . .</b>	<b>270</b>
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Paragraph 1. — Add after the words “by force”. Delete the words “against their will”.

After the words “of occupied territory” add the words “into the territory of the occupying Power or the territory of any other country”.

Paragraph 2. — Delete the words “except in cases of physical necessity” and substitute “any population evacuated in such a way shall be transferred back as soon as hostilities cease in the given area”.

<b>Article 45. <i>Text adopted by the Drafting Committee proposed to Committee III.</i> 2.VII.1949. . . . .</b>	<b>271</b>
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*Deportations, transfers, evacuations*

Individual or mass forcible transfers, as well as deportations of protected persons from occupied territory to the territory of the Occupying Power or to that of any other country, occupied or not, are prohibited, regardless of their motive.

Nevertheless, the Occupying Power may undertake total or partial evacuation of a given area if the security of the population or imperative military reasons so demand. Such evacuations may not involve the displacement of protected persons outside the bounds of the occupied territory except in cases of physical necessity. Persons thus evacuated shall be transferred back to their homes as soon as hostilities in the area in question have ceased.

The Occupying Power shall not undertake such transfers and evacuations before having ensured proper accommodation to receive the protected persons; such displacements shall be effected in satisfactory conditions of hygiene, health and nutrition. Members of the same family shall not be separated.

The Protecting Power shall be informed of any transfers and evacuations as soon as they have taken place.

The Occupying Power shall not detain protected persons in an area particularly exposed to the dangers of war unless the security of the population or imperative military reasons so demand.

The Occupying Power shall not deport or transfer parts of its own civil population into the territory it occupies.

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\* The Drafting Committee adopted the above text by 6 votes (Canada, France, Norway, Switzerland, United Kingdom, United States of America) to 1 (Union of Soviet Socialist Republics). The Delegation of the U.S.S.R. prefers the Stockholm text to the text above.

Articles 46, 52, 59, 78, 80. Letter addressed to the Chairman of Commission III by the International Union for Child Welfare. 7.VI.1949. . . . .

No.  
272

SIR,

We have to acknowledge with thanks your communication of 24 May, informing us that our letter of 16 May has been brought to the attention of the members of the Drafting Committee.

That letter concerned Articles 12, 20, 21 and 27. We venture to write to you again to day with regard to several other Articles of the Convention which affect children, namely:

*Article 46. Children*

The various amendments submitted by the Delegations of Belgium, the Netherlands and the United Kingdom appear to us to be excellent and we very much hope that account will be taken of them in the final draft of this Article.

*Article 52. Collective Relief*

It would, in our opinion, be very regrettable to omit all mention of the humanitarian bodies which might be entrusted with the distribution of relief consignments, also the enumeration of the charges from which these consignments should be exempt. It appears to us to be preferable to keep the text of the Article as near as possible to its original wording.

*Article 59. Penalties*

We would strongly urge that the prohibition of the death penalty in the case of a protected person under 18 years of age be maintained.

We are well aware that it is possible for young people to commit acts which in the case of adults would incur the death penalty, but we believe that in the great majority of cases these minors do not realize the full implication and the consequences of the acts which they commit. It would therefore be inhuman to inflict a sentence on them which is absolutely irrevocable.

*Article 78. Food*

We should be happy to see the suggestion of the British Delegation adopted in the final wording of this Article, i.e. the addition after the word "health" in the first sentence of the words: "to prevent the loss of weight or the development of nutritional deficiencies and, in the case of a child, to promote normal growth".

If it is desired, in the last paragraph, to state precisely the age up to which children shall have the right to supplementary food rations to meet their physiological needs, it would appear judicious to fix the age limit at 16 years and not 15 (as suggested in the amendment): for two reasons, because 16 is the age adopted in other Articles of the Convention, and because the experience of the last war showed that the older children and adolescents suffered much more from under-nourishment than the lower age groups.

*Article 80. Medical Attention.*

We should be happy if the text of the second paragraph of this Article included maternity cases (as provided for in the amendment).

We trust that you will be good enough to bring this letter to the attention of the members of Committee III, and in particular of those of the Drafting Committee.

Assuring you in anticipation of our grateful thanks, we have the honour to be, Sir,

Yours very truly,

(sgd.) Georges THÉLIN  
Secretary General.

(sgd.) A. MORIER PICTET  
Chairman Executive Committee.

**Article 46\***. *Text adopted by the Drafting Committee.* 30.VI.1949. . . . . **273**

*Children*

The Occupying Power shall, with the co-operation of the national and local authorities, facilitate the proper working of all institutions devoted to the care and education of children.

The Occupying Power shall take all necessary steps to facilitate the identification of children and the registration of their parentage. It may not, in any case, change their personal status, nor enlist them in formations or organizations subordinate to it.

Should the local institutions be inadequate for the purpose, the Occupying Power shall make arrangements for the maintenance and education, if possible by persons of their own nationality, language and religion, of the children who are orphaned or separated from their parents as a result of the war, who cannot be adequately cared for by a near relative or friend.

A special section of the Bureau set up in accordance with Article 123 shall be charged with taking all necessary steps to identify children whose identity is in doubt. Particulars of their parents or other near relatives should always be recorded if available.

The Occupying Power shall not impair the continuance of any preferential measures in regard to food, medical care and protection against the effects of war which may have been adopted prior to the occupation in favour of children under fifteen, expectant mothers, and mothers of children under seven.

**Article 47.** *Extract from the Document presented by the International Labour Organization.* (Document No. 7) . . . . . **274**

*Work of persons who may be in a territory occupied by a foreign Power*

During the preparation of Article 47 of the text approved at Stockholm, the International Committee of the Red Cross, in its report, expressed the opinion that populations should not be compelled to work beyond the right of requisition provided by Article 52 of the Hague Regulations, and that work done within these limits should fulfil the conditions laid down for prisoners of war. But Article 47 of the text approved at Stockholm, while laying down the conditions under which an Occupying Power may require civilian persons in occupied territory to work in certain determined occupations, does not fix the conditions under which work in such occupations is to be carried out.

It is generally admitted that military occupation of a territory in time of war does not constitute a form of acquisition of sovereignty and that, consequently, the Occupying Power does not exercise its own power over the occupied territory, the Occupying Power exercises the power pertaining to the occupied State and therefore should apply normally to the nationals of the occupied State the legislation of the latter; it is a general rule of international law that local rights are preserved; these rights can be modified by the Occupying Power only within certain limits.

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\* The first paragraph was adopted unanimously.

The first sentence of the second paragraph was adopted by 4 votes (France, Norway, Switzerland, Union of Soviet Socialist Republics) to 3 (Canada, United Kingdom, United States of America). The second sentence was adopted unanimously.

The third paragraph was adopted by 5 votes (Canada, France, Norway, United Kingdom, United States of America) to one (Union of Soviet Socialist Republics).

The fourth paragraph was adopted by 5 votes (France, Norway, Switzerland, United Kingdom, United States of America). The Delegations of Canada and of the Union of Soviet Socialist Republics abstained from voting.

The fifth paragraph was adopted by 6 votes (Canada, France, Norway, Switzerland, United Kingdom, United States of America), against one (Union of Soviet Socialist Republics).

"The Minority of the Drafting Committee (U.S.S.R.) wishes to re-introduce into the above text, in their entirety, paragraphs 2 and 3 of Article 27, from which the fifth paragraph of that text has been extracted. He therefore wishes the text of the fifth paragraph of the above Article to be replaced by the text of the second and third paragraphs of Article 27."

Article 43 of the Regulations annexed to the Convention concerning the laws and customs of war adopted at The Hague on 18 October 1907 provides as follows:

“The authority of the legitimate power having actually passed into the hands of the occupant, the latter shall take all steps in his power to re-establish and insure, as far as possible, public order and safety, while respecting, unless absolutely prevented, the laws in force in the country.”

It follows that the legislation applicable to labour problems in occupied territory is the legislation of that territory, except in so far as such legislation has been legally modified by the Occupying Authorities acting within the limits of their powers.

It would seem useful to add a detailed provision on this point to the text approved at Stockholm. This might be done by adding to Article 47 the following paragraph:

“The labour legislation of the occupied territory shall continue to apply to work exacted in virtue of this Article except in so far as such legislation has been modified by the Occupying Power within the limits of the rights conferred on the aforesaid Power by Article 43 of the Regulations annexed to the Hague Convention of 1907 the laws and customs of war on land.”

**Article 47\*.** *Text adopted by the Drafting Committee. 5.VII.1949. . . . .* **275**

*Enlistment. Labour.*

The Occupying Power may not compel protected persons to serve in its armed or auxiliary forces. No pressure or propaganda which aims at securing voluntary enlistment is permitted.

The Occupying Power may not compel protected persons to work unless they are over 18 years of age, and then only on work which is necessary either to the needs of the army of occupation or for the public utility services and for the feeding, sheltering, clothing, transportation and health of the population of the occupied country. Protected persons may not be compelled to undertake any work which would involve them in the obligation of taking part in military operations. The Occupying Power may not compel protected persons to employ forcible means to ensure the security of the installations where they are performing compulsory labour.

The work shall be carried out only in the occupied territory where the requisitioned persons may be. Every requisitioned person shall, so far as possible, be kept in his usual place of employment. Workers shall be paid a fair wage and the work shall be proportionate to their physical and intellectual capacities. The legislation in force in the occupied country concerning working conditions, such as wages, hours of work, equipment, preliminary training and protection against occupational accidents, shall continue to be applicable to the protected persons assigned to the work referred to in this Article.

In any case requisition of labour shall at no time lead to a mobilisation of workers in an organization of a military or semi-military character.

**Article 48\*\*.** *Text adopted by the Drafting Committee. 2.VII.1949 . . . . .* **276**

*Protection of Workers*

No contract, agreement or regulation shall impair the right of every worker, whether voluntary or not and wherever he may be, to apply to the representatives of the Protecting Power, in order to request the said Power's intervention.

\* The Minority of the Drafting Committee (Union of Soviet Socialist Republics) insists that the second paragraph above be replaced by the second paragraph of the Stockholm text.

The Minority of the Drafting Committee (Union of Soviet Socialist Republics) insists that the fourth paragraph above be replaced by the fourth paragraph of the Stockholm text which reads as follows:

“In any case, requisition of labour shall only be of a temporary nature, and shall in no case lead to the mobilisation of workers for the duration of hostilities.”

\*\* This text was adopted unanimously.

All measures aiming at creating unemployment or at restricting the opportunities offered to workers in an occupied territory, in order to induce them to work for the Occupying Power, are prohibited.

**Article 48A\*.** *Text proposed by the Majority of the Drafting Committee.* 7.VI.1949 . . . . . 277

Any destruction by the Occupying Power of real or personal property belonging individually or collectively to private persons or to the State or to social or co-operative organizations, which is not absolutely required by the necessities of war, is prohibited.

**Article 48A\*\*.** *Text adopted by the Drafting Committee.* 6.VII.1949 . . . . . 278

The Occupying Power may not alter the status of public officials or judges in the occupied territories, or in any way apply sanctions or take any measures of coercion or discrimination against them, should they abstain from fulfilling their functions for reasons of conscience.

This prohibition does not apply to persons compelled to undertake certain work in accordance with the provisions of the second paragraph of Article 47. It does not affect the right of the Occupying Power to remove public officials from posts which they are occupying.

**Article 49.** *Amdt. United States of America.* 16.V.1949. . . . . 279

Delete the first and second paragraphs and substitute the following:

“The Occupying Power shall endeavour, within the means available to it, to assure the food supply of the civilian population.

The Occupying Power shall, subject to its military necessities, import the necessary foodstuffs and products if the resources of the occupied territory are inadequate to ensure such subsistence; it may requisition only such foodstuffs or products available in the occupied territory as are required for the occupying forces and may not requisition such foodstuffs or products for other purposes.”

**Articles 49 to 51A.** *Amdt. United Kingdom.* 17.V.1949. . . . . 280

Delete Articles 49 to 51 and substitute the following Articles 49, 50, 50A, 51 and 51A.

*Article 49.*

The Occupying Power shall not commandeer or use for its own purposes foodstuffs, clothing, medical supplies or other products available in the occupied territory unless the necessary requirements of the civilian population are sufficiently provided for, except to the extent that the provision of necessary supplies for the occupation forces or administration from other sources is temporarily impracticable.

Should the whole or part of the territory be inadequately supplied, the Occupying Power shall ensure, as far as means are available, that it receives an equitable share of such supplies from all sources which are available to the Occupying Power.”

*Note* — (Certain portions of Article 49 have been transferred to Article 50A.)

\* The majority of the Drafting Committee decided to delete that part of the second sentence of the second paragraph of the Stockholm text which refers to the destruction of property for, in its opinion, principle contained therein is applicable only in occupied territory. It has decided to enunciate this principle in the above new Article which deals with occupied territory only.

\*\* The above text was adopted by 5 votes (France, Norway, Switzerland, United Kingdom, United States of America) to 2 (Canada, Union of Soviet Socialist Republics). The Soviet Delegation is in agreement with the first paragraph but wishes the deletion of the second paragraph.

*Article 50.*

The Occupying Power shall ensure, with the co-operation of the national and local authorities, that, as far as means are available, public health and hygiene in occupied territories are maintained and that the proper working of hospital establishments and dispensaries is facilitated.

*Article 50A.*

If the whole or part of the population of an occupied territory is inadequately supplied, the Occupying Power shall agree to relief schemes on behalf of the said population, and shall facilitate them by all the means at its disposal.

Such schemes shall consist, in particular, of consignments of foodstuffs, clothing and medical supplies.

All Contracting Parties shall permit the passage of those consignments and shall guarantee their protection. A Power granting free passage of consignments for territory occupied by an adverse Party to the conflict shall, however, have the right to prescribe the technical arrangements under which passage shall be allowed and to be satisfied that the Power in occupation of the territory to which they are destined is complying with the provisions of Articles 49 and 51.

*Article 51.*

Relief consignments shall in no way relieve the Occupying Power of any of its responsibilities under Articles 49 and 50. Subject to Article 51A the Occupying Power shall admit consignments of relief supplies and shall neither requisition them nor divert them in any way from their destination.

*Article 51A.*

The Occupying Power shall have the right to refuse to admit relief supplies from any source other than the International Red Cross Committee should its own security necessitate, or from any source if the distribution facilities are temporarily inadequate to cope with the supplies."

**Article 49.** *Text adopted by the Working Party. 24.VI.1949. . . . .* **281**

*Majority Text*

To the fullest extent of the means available to it, the Occupying Power has the duty of assuring the food and medical supplies of the population; it should, in particular, bring in the necessary foodstuffs, medical stores and other articles if the resources of the occupied territory are inadequate.

The Occupying Power may requisition foodstuffs or articles as also medical supplies available in the occupied territory, only for the occupation forces and administration personnel, and only if the requirements of the civilian population are taken into account. Subject to the provisions of other international Conventions, the Occupying Power shall make arrangements to ensure that fair value is paid for any requisitioned goods.

The Protecting Powers shall, at any time, be at liberty to verify the state of the food and medical supplies in occupied territories, with the reservation of temporary restrictions necessitated by imperative military requirements.

*Minority Text*

Second paragraph: Delete the word "requisition" and replace it by "draw upon by means of requisition or by any other means".

Delete the words "and administration personnel".

<b>Article 49.</b> <i>Amdt. U.S.S.R. 28.VI.1949</i> . . . . .	No. <b>282</b>
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(1) Complete the first paragraph, drafted by the Working Party, as follows:

After the word "foodstuffs" insert the words: "medicaments, vaccines, serums, dressings", and continue according to the majority text.

(2) In the second paragraph, drafted by the Working Party, delete:

(a) the words: "only if the requirements of the civilian population are taken into account", and replace by "providing the needs of the civilian population are sufficiently covered";

(b) the words: "as also medical supplies".

The two first paragraphs will therefore read as follows:

"To the fullest extent of the means available to it, the Occupying Power has the duty of assuring the food and medical supplies of the population; it should, in particular, bring in the necessary foodstuffs, medicaments, vaccines, serums, dressings, medical stores and other articles, if the resources of the occupied territory are inadequate.

The Occupying Power may not requisition foodstuffs or articles or medical supplies, available in the occupied territory, except for use by the occupation forces and administration personnel, and then only if the requirements of the civilian population are sufficiently covered. Subject to the provisions of other international Conventions, the Occupying Power shall make arrangements to ensure that fair value is paid for any requisitioned goods."

**Article 50.** *Amdt. United Kingdom.* See Annex No. **280.**

**Article 50.** *Amdt. Plen. Argentina, etc.* See Annex No. **213.**

<b>Article 50.</b> <i>Text adopted by the Working Party. 24.VI.1949</i> . . . . .	<b>283</b>
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To the fullest extent of the means available to it, the Occupying Power has the duty to ensure and maintain, with the co-operation of national and local authorities, the medical and hospital establishments and services, public health and hygiene in the occupied territory, with particular reference to the adoption and application of prophylactic and preventive measures necessary to combat the spread of contagious diseases and epidemics. Medical personnel of all categories shall be allowed to carry out their duties.

If new hospitals are set up in occupied territory and if the competent organs of the occupied State are not operating there, the occupying authorities shall confer the recognition provided for in Article 15.

In adopting measures of health and hygiene and in their implementation, the Occupying Power shall take into consideration the moral and ethical susceptibilities of the population of the occupied territory.

<b>Article 50A</b> . . . . .	<b>284</b>
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The Occupying Power may requisition civilian hospitals only temporarily and only in cases of urgent necessity for the care of military wounded and sick, and then on condition that suitable arrangements are made in due time for the care and treatment of the patients and for the needs of the civilian population for hospital accommodation.

The material and stores of civilian hospitals cannot be requisitioned so long as they are necessary for the needs of the civilian population.

**Article 50A.** *Amdt. United Kingdom.* See Annex No. **280.**

	No.
<b>Article 50B</b> . . . . .	<b>285</b>

The Occupying Power shall permit ministers of religion to give spiritual assistance to the members of their religious communities.

The Occupying Power shall also accept consignments of books and articles required for religious needs and shall facilitate their distribution in occupied territory.

<b>Article 50C</b> . . . . .	<b>286</b>
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If the whole or part of the population of an occupied territory is inadequately supplied, the Occupying Power shall agree to relief schemes on behalf of the said population, and shall facilitate them by all the means at its disposal.

Such schemes, which may be undertaken either by States or by impartial humanitarian organizations such as the International Committee of the Red Cross, shall consist, in particular, of the provision of consignments of foodstuffs, medical supplies and clothing.

All Contracting Parties shall permit the free passage of these consignments and shall guarantee their protection.

A Power granting free passage of consignments on their way to a territory occupied by an adverse Party to the conflict shall, however, have the right to search the consignments, to regulate their passage according to prescribed times and routes, and to be reasonably satisfied through the Protecting Power that these consignments are used for the relief of the needy population and are not to be used for the benefit of the Occupying Power.

**Article 51.** *Amdt. United Kingdom.* See Annex No. **280.**

<b>Article 51</b> . . . . .	<b>287</b>
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Relief consignments shall in no way relieve the Occupying Power of any of its responsibilities under Articles 49, 50 and 50C. The Occupying Power shall in no way whatsoever divert relief consignments from the purpose for which they are intended, except in the event of urgent necessity, and with the consent of the Protecting Power.

<b>Article 51A</b> . . . . .	<b>288</b>
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If it is proved that relief consignments from any particular source contain war material or other objects likely to endanger the safety of the Occupying Power, the latter may refuse to admit other supplies from the same source. However this measure will be cancelled immediately when the good faith of the sender has been re-established.

**Article 51A.** *Amdt. United Kingdom.* See Annex No. **280.**

<b>Article 52</b> . . . . .	<b>289</b>
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The distribution of the relief consignments referred to in the foregoing Articles shall be carried out with the co-operation and under the supervision of the Protecting Power. This duty may also be delegated by agreement between the Occupying Power and the Protecting Power to a neutral Power, to the International Committee of the Red Cross or to any other impartial humanitarian body.

Such consignments shall be exempt in occupied territory, from all charges, taxes or customs duties unless these are necessary in the interests of the economy of the territory. The Occupying Power shall facilitate to ensure the rapid distribution of these consignments.

All the Contracting Parties shall endeavour to permit, free of charge, the transit and transport of such relief consignments on their way to occupied territories.

**Article 52.** *Letter International Union for Child Welfare.* See Annex No 272.

No.

**Article 54.** *Amdt. Belgium. 17.v.1949* . . . . . **290**

It is essential, in the interests of the civil population, that there should be no interruption in the functioning of special services created to meet the contingencies of conflicts which are steadily developing into total warfare, so that a minimum of protection may be ensured to persons who are not regarded as engaged in active military operations.

The Belgian Delegation is of the opinion that such services should be granted the same guarantees as those already granted to National Red Cross Societies and other organizations of the kind. In many respects, the duties of such societies and those of the services in question are identical or complementary. There may be times when only the assistance of the special services will be called upon.

Hence the following words might be inserted between the first and second paragraphs of Article 54, forming a new paragraph to read as follows:

“The same shall apply, within the powers conferred upon them by law or regulation, and apart from any military activity, to the special services occupied in the protection of the civil population”.

In the second paragraph after the words “of these societies” should be inserted “and special services”.

The third paragraph should begin as follows:

“Relief societies other than those mentioned above shall be . . .”.

**Article 54.** *Amdt. Netherlands. 19.v.1949.* . . . . . **291**

In the opinion of the Netherlands Delegation the obligations, imposed upon the Occupying Power with regard to the continuation of the activities and the changes in the personnel or structure of the Red Cross Societies should also apply to the societies duly recognized and authorized by their Governments, as is laid down in Article 20 of the Wounded and Sick Convention.

The Occupying Power cannot be expected to treat all other relief societies in the same way. There are beside them many other societies working for the benefit of the whole population, which should normally carry out their duties, without being entitled to special treatment and they need not to be mentioned in the Convention.

The Netherlands Delegation therefore esteemed that the societies named in the third paragraph ought only be societies recognized and authorized by the Government of the occupied territory, as is mentioned in the said Article 20 of the Wounded and Sick Convention.

Therefore we want to insert in the third paragraph, after the words “the other relief societies”, the words “duly recognized and authorized by the Government of the occupied territory”.

In the opinion of the Netherlands Delegation the provisions of the second paragraph ought to be applied in the same way to the other duly recognized societies.

Therefore we propose to put the third paragraph before the second one.

The whole Article then reads as follows:

“In occupied territories, recognized National Red Cross Societies shall be able to pursue their activities in accordance with Red Cross principles, as defined by the International Red Cross Conferences.

The other relief societies duly recognized and authorized by their Governments shall be permitted to continue their humanitarian activities under similar conditions, provided that they refrain from any act harmful to the Occupying Power.

The Occupying Power may not require any changes in the personnel or structure of these Societies, which would prejudice the aforesaid activities.”

- No.
- Article 54.** *Amdt. U.S.S.R. 28.VI.1949* . . . . . **292**
- (1) In the first paragraph, delete the words: "Subject to temporary measures which might be imposed for urgent reasons of security by the Occupying Power".
  - (2) In sub-paragraph (a) of the first paragraph delete the words: "The other relief societies shall be permitted to continue their humanitarian activities under similar conditions".
  - (3) Replace the second paragraph by the following text: "The other relief societies shall be permitted to continue their humanitarian activities under similar conditions, provided that they refrain from any act which might be harmful to the Occupying Power".
- Article 54.** *Text adopted by the Working Party. 24.VI.1949* . . . . . **293**
- Subject to temporary measures which might be imposed for urgent reasons of security by the Occupying Power:
- (a) recognized National Red Cross Societies shall be able to pursue their activities in accordance with Red Cross principles, as defined by the International Red Cross Conferences. The other relief societies shall be permitted to continue their humanitarian activities under similar conditions;
  - (b) the Occupying Power may not require any changes in the personnel or structure of these societies, which would prejudice the aforesaid activities.
- The same principles shall apply to the activities and personnel of special organizations of a non-military character, which already exist or which may be established, for the purpose of ensuring the living conditions of the civilian population, by the maintenance of the essential public utility services by the relief distribution, and rescue services.
- Article 55.** *Amdt. United States of America. 16.V.1949.* . . . . . **294**
- (1) Delete first paragraph and substitute the following:  
"Until changed by the Occupying Power the penal laws of the occupied territory shall remain in force and the tribunals thereof shall continue to function in respect of all offences covered by the said laws."
  - (2) Delete paragraph two.
- Article 55.** *Amdt. United Kingdom. 28.V.1949.* . . . . . **295**
- Delete Article 55 and substitute:
- "The penal laws of the occupied territory shall remain in force unless they contravene the principles of this Convention or endanger the security of the Occupying Power. Subject to the same considerations, and to the necessity for securing the effective dispensation of justice, the tribunals of the occupied territory shall continue to function in respect of all offences covered by the said laws.
- The Occupying Power may subject the population of the occupied territory to provisions which are essential to ensure the application of this Convention and the orderly government of the territory, and to provisions intended to assure the security of the members and property of the forces or administration of the Occupying Power, and likewise of the establishments used by the said forces and administration."
- Article 55.** *Text adopted by Drafting Committee No. 2. 5.VII.1949.* . . . . . **296**
- Text of the Majority*
- The penal laws of the occupied territory shall remain in force, with the exception that they may be repealed or suspended by the Occupying Power in cases where they

constitute a menace to the security of the Occupying Power or an obstacle to the application of this Convention. Subject to the latter consideration and to the necessity for ensuring the effective administration of justice, the tribunals of the occupied territory shall continue to function in respect of all offences covered by the said laws.

The Occupying Power may, however, subject the population of the occupied territory to provisions which are essential to enable the Occupying Power to fulfil its obligations under this Convention, to maintain the orderly government of the territory, and to ensure the security of the Occupying Power of the members and property of the occupying forces or administration and likewise of the establishments and lines of communication used by them.

#### *Text of the Minority*

The penal laws of the occupied Power shall remain in force and its courts shall continue to act in respect of all offences covered by the said laws, except in cases where this constitutes a menace to the security of the Occupying Power.

The Occupying Power may, however, subject the population of the occupied territory to (penal) provisions intended to assure the security of the members and property of the forces or administration of the Occupying Power, and likewise of the establishments used by the said forces and administration.

#### **Article 57. Amdt. United States of America. 16.V.1949 . . . . . 297**

Delete and substitute the following:

“Trials ordered by the occupying Power shall be held in non-political military or civil courts sitting in occupied territory. Courts of appeal are not subject to the obligation of sitting in occupied territory.”

#### **Article 57. Text adopted by Drafting Committee No. 2. 27.VI.1949. . . . . 298**

#### *III. Competent courts.*

In case of breach of the penal provisions promulgated by it by virtue of Article 55, paragraph 2, the Occupying Power may hand over the accused to its properly constituted, non-political military courts, on condition that the said courts sit in the occupied country. Courts of appeal shall preferably sit in the occupied country.

#### **Article 59. Letter from International Union for Child Welfare. See Annex No. 272.**

#### **Article 59. Text adopted by the Majority of Drafting Committee No. 2. 4.VII.1949 . . . . . 299**

#### *V. Penalties*

Protected persons who commit an offence solely intended to harm the Occupying Power, but which does not constitute an attempt on the life or limb of members of the occupying forces or administration, nor a grave collective danger, nor seriously damage the property of the occupying forces or administration or the installations used by them, are liable to internment or simple imprisonment, provided the duration of such internment or imprisonment is proportionate to the offence committed. Furthermore, internment or imprisonment for such offences shall be the only measure adopted for depriving protected persons of liberty. The courts provided for under Article 57 of the present Convention may at their discretion convert a sentence of imprisonment to one of internment for the same period.

The penal provisions promulgated by the Occupying Power in conformity with Articles 55 and 56 may impose the death penalty on a protected person only in cases where the person is guilty of espionage, or of intentional offences which have caused the death

of one or more persons, or serious injury to one or more members of the occupying forces or administration, or which constitute serious public dangers, or which seriously damage the property of the occupying forces or administration or the installations or lines of communication used by them.

The death penalty may not be pronounced against a protected person unless the attention of the court has been particularly called to the fact that since the accused not being a national of the Occupying Power he is not bound to it by any duty of allegiance.

In any case, the death penalty may not be pronounced against a protected person who was under 18 years of age at the time of the offence.

**Article 59<sup>a</sup>.** *New Text adopted by the Majority of Drafting Committee No. 2. II.VII.1949. . . . .* **300**

The penal provisions promulgated by the Occupying Power in conformity with Articles 55 and 56 may only impose the death penalty on a protected person in cases where the person is guilty of espionage, of homicide or attempted homicide resulting in grave injury against the members of the occupying forces or administration or of grave acts of sabotage of installations having an essential military interest for the Occupying Power.

**Article 59\*.** *Amdt. Plen. Australia, Burma, the Netherlands, the United Kingdom and the United States of America. 29.VII.1949 . . . . .* **301**

Delete the second paragraph and substitute:

"The penal provisions promulgated by the Occupying Power in conformity with Articles 55 and 56 may only impose the death penalty on a protected person in cases where the person is guilty of

- (a) espionage;
- (b) homicide, or attempted homicide resulting in grave injury, against the members of the occupying forces or administration;
- (c) grave acts of sabotage resulting in the destruction of or severe damage to installations having an essential military interest for the Occupying Power."

\* Paragraph 2 of Article 59, as adopted by Committee III by a vote of 17 - 13, provides that the Occupying Power may impose the death penalty on protected persons only for certain specified offences and only if such offences "were punishable by death under the law of the occupied territory in force before the occupation began". This is an indirect method of abolishing the death penalty in occupied territory, since if the provision remains, the legislature of a country about to be occupied would be almost certain to abolish the death penalty prior to the occupation.

Everyone is agreed that an Occupying Power should be prohibited from imposing the death penalty for such minor offences as listening to the enemy radio. On the other hand an Occupying Power may well be confronted with a serious situation arising out of the activities of illegal combatants, i.e., persons who, if captured, are not entitled to be treated as prisoners of war under Article 3 of the Prisoners of War Convention. Such acts of illegal warfare may well constitute a grave threat to the military security of an Occupying Power and have traditionally been punishable by death.

The amendment proposed, while leaving to an Occupying Power an absolute minimum of freedom to deal effectively with grave acts of illegal warfare, ensures that the imposition of the death penalty is limited to such grave acts only and prohibits its imposition for any act which does not gravely injure the Occupying Power.

In addition, it should not be overlooked that the virtual abolition of the death penalty in occupied territory may, in practice, endanger the lives, not only of the persons guilty of illegal warfare, but also their innocent compatriots. A principle recognized by International Law is that not even a spy shall be punished without previous trial. This principle, that even illegal combatants shall be brought to trial rather than summarily executed will be endangered unless soldiers know that the penalties following such a trial are commensurate with the offence. In this connection it should be noted that serious restrictions have been placed on the ability of an Occupying Power to protect itself against illegal combatants by the prohibition, under other Articles of the Convention, of reprisals, the taking of hostages or the imposition of collective penalties, and further, that the evacuation of local areas in which such acts occur has been limited by Article 45.

For these reasons, the Delegations presenting this amendment strongly urge its adoption. Not only does it limit the application of the death penalty to really serious offences but it provides a basis upon which International Law can be built.

**Article 60.** *Text adopted by Drafting Committee No. 2. II.VII.1949.* . . . . . **302**

*Breaches committed before occupation*

Protected persons shall not be arrested, prosecuted or convicted by the Occupying Power for acts committed or for opinions expressed before the occupation, or during a temporary interruption thereof, with the exception of breaches of the laws and customs of war.

Nationals of the Occupying Power who, before the outbreak of hostilities, have sought refuge in the territory of the occupied State from the consequences of an offence committed outside the occupied territory, shall not be arrested, prosecuted, convicted or deported out of the occupied territory, unless according to the law of the occupied State, the said offence would have justified extradition in time of peace, and contradiction is carried out in accordance with the procedure laid down by that law.

**Article 60.** *Amdt. Plen. United States of America. 29.VII.1949.* . . . . . **303**

Second paragraph: delete the words "and extradition is carried out in accordance with the procedure laid down by that law".

*Explanation*

The words which it is proposed to delete were added by Committee III to the Stockholm text.

Second paragraph of the Stockholm text provided that:

"Nationals of the Occupying Power who, before the outbreak of hostilities, have sought refuge in the territory of the occupied State from the consequences of an offence committed outside the occupied territory, shall not be arrested, prosecuted, convicted or deported out of the occupied territory, unless, according to the law of the occupied State, the said offence would have justified extradition in time of peace."

The purpose of this language was to prevent an Occupying Power from prosecuting for political offences any of its nationals who had found refuge in the occupied territory prior to the outbreak of hostilities. This humane purpose was to be achieved by prohibiting the Occupying Power from arresting, prosecuting, convicting or deporting out of the occupied territory any of its nationals for a pre war offence "unless, according to the law of the occupied State, the said offence would have justified extradition in time of peace". In other words, a national of the Occupying Power could be arrested, prosecuted, convicted or deported on account of an ordinary criminal offence such as are usually included in extradition treaties, but not on account of political offences which are not usually covered by extradition treaties.

The clause added in Committee III would not only prohibit the extradition of such a national by the Occupying Power except in accordance with the extradition procedure of the occupied territory, but would also prohibit the arrest, prosecution or conviction of such a person unless he had been so extradited. However, it might be that the Occupying Power desires only to bring such person to trial in the occupied territory, and does not wish to extradite such person. In that event, it would be entirely irrelevant to require that before such a trial in the occupied territory "extradition is carried out in accordance with the procedure laid down by the law". In this way the clause added in Committee III has destroyed the clear purpose and application of the second paragraph of the Stockholm text.

For this reason, the Delegation of the United States of America proposed the deletion of the last clause of the second paragraph of Article 60.

**Article 60.** *Amdt. Plen. Greece. 27.VII.1949* . . . . . **304**

Add a third paragraph to read as follows:

"A mere expression of opinion in time of occupation cannot lead to prosecution unless it is by nature or intention such as might instigate a rising against the Occupying Power."

*Explanatory Note*

The stipulation in the first paragraph of Article 60 of the Civilian Convention that protected persons may not be prosecuted by the Occupying Power for opinions expressed before the occupation implies a contrario that the expression during the occupation of any opinion unfavourable to the Occupying Power, however mild its form, might involve prosecution,

This would not appear to be the meaning which the Meeting wishes to give this provision.

The Greek Delegation considers that the interpellation set forth above is inadmissible for Nations who believe in the dignity of man. It would therefore be dangerous to leave Article 60 as it stands in view of the possibility of a strictly literal interpretation of its provisions.

In order to obviate this risk, the Greek Delegation proposes the above amendment, which restricts the possibility of prosecution to the expression of opinions which might instigate any rising against the Occupying Power.

**Article 61.** *Text adopted by Drafting Committee No. 2. 4.VII.1949.* . . . . . **305**

*Penal procedure — I. General remarks*

No conviction shall be pronounced except after a regular trial before the competent courts of the Occupying Power.

Accused persons who are prosecuted by the Occupying Power shall be promptly informed, in writing, in a language which they understand, of the particulars of the charge preferred against them, and shall be brought to trial as rapidly as possible. The Protecting Power shall be informed of all proceedings instituted by the Occupying Power against protected persons in respect of charges involving the death penalty or imprisonment for two years or more; it shall be enabled, at any time, to obtain information regarding the state of such proceedings. Further, the Protecting Power shall be entitled, on request, to be furnished with all particulars of these and of any other proceedings instituted by the Occupying Power against protected persons.

The notification to the Protecting Power, as provided for in the second paragraph above, shall be sent immediately, and shall in any case reach the Protecting Power eight days before the date of the first hearing. It shall include the following particulars:

- (a) description of the accused;
- (b) specification of the charge (with mention of the penal provisions under which it is brought);
- (c) designation of the court which will hear the case;
- (d) place and date of the first hearing.

**Article 62.** *Text adopted by Drafting Committee No. 2. 4.VII.1949.* . . . . . **306**

*II. Right of defence*

Accused persons shall have the right to be assisted by qualified counsel of their own choice, who shall be able to visit them freely and shall enjoy necessary facilities for preparing the defence.

Failing a choice by the accused, the Protecting Power may provide them with a counsel. When an accused person has to meet a serious charge and the Protecting Power is no longer functioning, the Occupying Power, subject to the consent of the accused, shall provide a counsel.

Accused persons shall, unless they freely waive such assistance, be aided by an interpreter, both during preliminary investigation and during the hearing in court. They shall have at any time the right to object to the interpreter and to ask for his replacement.

<b>Article 63.</b> <i>Text adopted by Drafting Committee No. 2. 4.VII.1949.</i> . . . . .	No. <b>307</b>
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*Means of defence*

Accused persons shall have the right to present evidence necessary to their defence and may, in particular, call witnesses.

Convicted persons shall have the right of appeal provided for by the laws applied by the court.

The penal procedure provided in this Section shall apply, so far as it is applicable, to appeals. Where the laws applied by the Court make no provision for appeals, the convicted person shall have the right to petition against the finding and sentence to the competent authority of the Occupying Power.

<b>Article 64.</b> <i>Amdt. United Kingdom. 30.V.1949.</i> . . . . .	<b>308</b>
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Delete the second paragraph and substitute:

“Any judgments involving a sentence of death, or imprisonment for three years or more, shall be communicated, with the relevant grounds as rapidly as possible to the Protecting Power. The notification shall contain a reference to the notification made under Article 61, and, in the case of sentences of imprisonment, the name of the place where the sentence is to be served. A record of the remaining judgments shall be maintained in the Court’s proceedings and shall be open to inspection by representatives of the Protecting Power. Judgments shall not be enforced until the expiration of the period allowed for appeal; the said period in the case of sentences involving imprisonment of three years or more shall not run until notification of judgment has been received by the Protecting Power. In all cases the duration of the period during which an accused person is under arrest awaiting trial or punishment shall be deducted from any period of imprisonment awarded.”

<b>Article 64.</b> <i>Text adopted by Drafting Committee No. 2. 4.VII.1949.</i> . . . . .	<b>309</b>
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*IV. Assistance by the Protecting Power.*

The representatives of the Protecting Power shall have the right to attend the sessions of any court judging a protected person, unless the hearing has, exceptionally, to be secret in the interests of the safety of the Occupying Power, which shall then notify the Protecting Power. A notification in respect of the date and place of sessions of such court shall be sent to the Protecting Power.

Any judgments pronounced, involving sentence of death or imprisonment for two years or more, shall be communicated, with the relevant grounds, as rapidly as possible to the Protecting Power. The notification shall contain a reference to the notification made under Article 61 and, in the case of sentences of imprisonment, the name of the place where the sentence is to be served. A record of the other judgments shall be kept by the Court and shall be open to inspection by representatives of the Protecting Power. Any period allowed for appeal in the case of sentences involving death penalty, or imprisonment of two years or more, shall not run until notification of judgment has been received by the Protecting Power. In all cases the duration of the period during which an accused person is under arrest awaiting trial or punishment shall be deducted from any period of imprisonment awarded.

<b>Article 65.</b> <i>Text adopted by Drafting Committee No. 2. 5.VII.1949.</i> . . . . .	<b>310</b>
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In no case shall persons condemned to death be deprived of the right of petition for pardon or reprieve.

No death sentence shall be carried out before the expiration of a period of at least six months from the date of receipt by the Protecting Power of the notification of the final judgment confirming such death sentence, or of an order rejecting pardon or reprieve.

The period of suspension of the death sentence herein prescribed may be reduced in individual cases in circumstances of grave emergency involving an organized threat to the security of the Occupying Power or its forces, provided always that the Protecting Power is notified of such reduction and is given reasonable time and opportunity to make representations to the competent occupying authorities in respect of such death sentences.

**Article 66.** *Text adopted by Drafting Committee No. 2. 5.VII.1949.* . . . . . **311**

Protected persons indicted or convicted by the courts of the Occupying Power shall serve their sentence in the occupied countries, and shall be separated, if possible, from the other detainees and shall enjoy conditions of food and hygiene sufficient to keep them in good health, and which will be at least similar to those obtaining in prisons in the occupied country.

They shall also have the right to receive any spiritual assistance which they may require.

Women shall be confined in separate quarters and shall be under the direct supervision of women.

Proper regard shall be paid to the special treatment due to minors.

Such persons shall have the right to be visited by delegates of the Protecting Power and of the International Committee of the Red Cross, in conformity with the provisions of Article 126.

Detained protected persons shall have the right to receive at least one relief parcel monthly.

**Article 68.** *Text adopted by Drafting Committee No. 2. 5.VII.1949.* . . . . . **312**

Should the Occupying Power consider it necessary, for imperative reasons of security, to take safety measures concerning protected persons, it may, at the most, sentence them to assigned residence or, in exceptional cases, to internment.

Decisions regarding such forced residence or internment shall be made according to a regular procedure to be prescribed by the Occupying Power and shall be subject to periodical review by a competent body set up by the said Power.

**Article 68.** *Text adopted by Drafting Committee No. 2. II.VII.1949* . . . . . **313**

Should the Occupying Power consider it necessary, for imperative reasons of security to take safety measures concerning protected persons, it may, at the most, subject them to assigned residence or, in exceptional cases, to internment.

Decisions regarding such assigned residence or internment shall be made according to a regular procedure to be prescribed by the Occupying Power in conformity with the provisions of the present Convention. Such decisions shall be subject to periodical review by a competent body to be set up by the said Power.

**Article 68.** *Amdt. Plen. United States of America. I.VIII.1949* . . . . . **314**

*Note.* — This paper can best be understood in conjunction with the proposed amendments to Article 38.

*Amendment No. 1.*

Add the following paragraph:

“Protected persons made subject to assigned residence and thus required to leave their homes shall enjoy the full benefit of Article 36 of this Convention.”

*Explanation.* — Controlled residence is the most usual form of control over aliens in wartime. It normally requires that the alien remains in his usual place of residence and obtains permission before leaving it for some other place. It may also take the form of barring

certain classes or nationalities of aliens from certain well-defined zones while affording them full liberty to choose their place of residence anywhere else in the country. Assigned residence, on the other hand, has been practised by only a few countries. In them, aliens have been directed to proceed to specified remote localities and to remain there. The situation in such localities and the lack of provision for the accommodation or support of the aliens has been such as to afford the countries concerned all the advantages of internment without the corresponding responsibilities or expense. The foregoing new paragraph is intended to make it clear that if an occupying power resorts to the practice of assigned residence in the occupied territory, it cannot avoid responsibility for the welfare of the protected persons thus sent from their homes.

*Amendment No. 2.*

Paragraph 1, line 4. Delete "in exceptional cases".

*Explanation.* — If the above amendment is adopted, the phrase referred to is unnecessary. It first occurred in the part of the Tokyo Draft corresponding to Article 38 of this Convention and there referred to the relatively mild measure of controlled (*surveillée*) as opposed to assigned (*forcée*) residence.

**Article 70.** *Text adopted by the Drafting Committee* (Internment). 4.VI.1949 . . . . . **315**

"Internees shall retain their full civil capacity and shall exercise such attendant rights, as may be compatible with their status."

**Article 71.** *Text adopted by the Drafting Committee* (Internment). 4.VI.1949. . . . . **316**

The Parties to the conflict who intern protected persons shall be under obligation to provide for their free maintenance, and to grant them also the medical attention required by their state of health.

No deduction shall be made from the allowances, salaries or credits due to the internees, for the repayment of these costs.

The Detaining Power shall provide for the support of those dependent on the internees, if such dependents are without adequate means of support or unable to earn a living on their own account.

**Article 72.** *Text adopted by the Drafting Committee* (Internment). 4.VI.1949 . . . . . **317**

The Detaining Power shall, as far as possible, accommodate the internees according to their nationality, language and customs.

Throughout the duration of their internment, members of the same family and in particular parents and children, shall be lodged together in the same place of internment, except when separation of a temporary nature is necessitated for reason of employment, health or for the purposes of enforcement of the provisions of Chapter IX of this Convention. Internees may request that their children who are left at liberty without parental care shall be interned with them.

Wherever possible, interned members of the same family shall be housed in the same premises and given separate accommodation from other internees, together with facilities for leading a proper family life.

**Article 73.** *Text adopted by the Drafting Committee* (Internment). 4.VI.1949. . . . . **318**

The Detaining Power shall not set up places of internment in areas particularly exposed to the dangers of war.

Detaining Powers shall give the enemy Powers, through the medium of the Protecting Powers, all useful information regarding the geographical location of places of internment.

Internment camps shall be indicated by the letters "IC", placed so as to be clearly visible in the daytime from the air. The Powers concerned may however, agree upon any other system of marking.

**Article 75.** *Text adopted by the Drafting Committee (Internment).* 4.VI.1949. . . . . **319**

The Detaining Power is bound to take all necessary and possible measures to ensure that protected persons shall, from the outset of their internment, be accommodated in buildings or quarters which afford all possible safeguards as regards hygiene and health, and efficient protection against the rigours of the climate and the effects of the war. In no case shall permanent places of internment be located in unhealthy areas, or in districts the climate of which is injurious for the internees. In any case where the district in which a protected person is temporarily interned is in an unhealthy area, or has a climate which is harmful to his health, he shall be removed as rapidly as circumstances permit to a more suitable place of internment.

The premises shall be fully protected from dampness, adequately heated and lighted, in particular between dusk and lights out. The sleeping quarters shall be sufficiently roomy and well ventilated, and the internees shall have suitable bedding and sufficient blankets, account being taken of the climate and the age, sex, and state of health of the internees.

Internees shall have for their use, day and night, sanitary conveniences which conform to the rules of hygiene, and are constantly maintained in a state of cleanliness. They shall be provided daily with sufficient water and soap for their personal toilet and for washing their laundry; facilities necessary for this purpose shall be granted to them. Showers or baths shall also be available. The necessary time shall be set aside for washing and cleaning.

Whenever it is necessary, as an exceptional and temporary measure, to accommodate women internees, not being members of a family unit, in the same place of internment as men, the provision of separate sleeping quarters and sanitary conveniences for the use of such women internees shall be obligatory.

**Article 76.** *Text adopted by the Drafting Committee (Internment).* 8.VI.1949. . . . . **320**

*Canteens*

Canteens shall be installed in every place of internment, except where other suitable facilities are available, for the purpose of enabling internees to make purchases, at prices not higher than local market prices, of foodstuffs and articles of everyday use, including soap and tobacco, the possession of which may tend to increase their personal well-being and comfort.

Profits made by canteens shall be credited to a welfare fund to be set up for each place of internment, and administered for the benefit of the internees attached to that place of internment. The Internee Committee, mentioned in Article 91, shall have the right to check the management of the canteen and of the said fund.

When a place of internment is closed down, the balance of the welfare fund shall be transferred to the welfare fund of a place of internment for internees of the same nationality, or, if such a place does not exist, to a central welfare fund which shall be administered for the benefit of internees in general who remain in the custody of the Detaining Power. In case of a general release, the said profits shall be kept by the Detaining Power, subject to any agreement to the contrary between the Powers concerned.

**Article 77.** *Amđt. Ireland.* 23.V.1949 . . . . . **321**

Delete the first paragraph and substitute the following:

"The provision of shelter against air raids and other hazards of war shall be a priority work of camp administration. Moreover, any scheme, whether under governmental or local authority, for the provision of shelters for the local civil population shall be extended to a place of internment where the work of the camp administration does not afford adequate

protection for the occupants; any other protective measures taken in favour of the population shall also apply to them. In case of alarms, internees shall be allowed to enter shelters as quickly as possible, except those who may be engaged in precautions for the protection of their quarters."

**Article 77.** *Text adopted by the Drafting Committee (Internment).* 4.VI.1949. . . . . **322**

In all places of internment shelters, adequate in number and structure, against air raids and other hazards of war shall be installed. In case of alarms, the internees shall be free to enter such shelters as quickly as possible, excepting those who remain for the protection of their quarters against the aforesaid hazards. Any protective measures taken in favour of the population shall also apply to them.

All precautions must be taken in places of internment against the danger of fire.

**Article 77.** *Text adopted by the Drafting Committee No. 2. (Internment).* 25.VI.1949. . . . . **323**

(The Committee referred back this text to Drafting Committee No. 2 on 23 June 1949.)

*Shelters, measures of protection*

In all places of internment exposed to air raids and other hazards of war, shelters adequate in number and structure to ensure the necessary protection shall be installed. In case of alarms, the internees shall be free to enter such shelters as quickly as possible, excepting those who remain for the protection of their quarters against the aforesaid hazards. Any protective measures taken in favour of the population shall also apply to them.

All due precautions must be taken in places of internment against the danger of fire.

**Article 78.** *Text adopted by the Drafting Committee (Internment).* 4.VI.1949 . . . . . **324**

Daily food rations for internees shall be sufficient in quantity, quality and variety to keep internees in a good state of health and prevent the development of nutritional deficiencies. Account shall also be taken of the habitual diet of the internees.

Internees shall also be given the means for preparing themselves any additional food in their possession.

Sufficient drinking water shall be supplied to internees. The use of tobacco shall be permitted.

Internees who work shall receive additional rations proportionate to the kind of labour which they perform.

Expectant and nursing mothers and children under 15 years of age shall be given additional food, proportionate to their physiological needs.

**Article 78.** *Letter International Union for Child Welfare.* See Annex No. **272.**

**Article 80.** *Text adopted by the Drafting Committee (Internment).* 4.VI.1949. . . . . **325**

Every place of internment shall have an adequate infirmary, under the direction of a qualified doctor, where internees may have the attention they require, as well as appropriate diet. Isolation wards shall be set aside for cases on contagious diseases.

Maternity cases and internees suffering from serious diseases, or whose condition necessitates special treatment, a surgical operation or hospital care, must be admitted to any institution where adequate treatment can be given and shall receive care not inferior to that provided for the population.

Internees shall have the attention preferably of medical personnel of their own nationality.

Internees may not be prevented from presenting themselves to the medical authorities for examination. The medical authorities of the Detaining Power shall, upon request, issue to every internee having undergone treatment an official certificate indicating the nature of his illness or injury, and the duration and kind of treatment given. A duplicate of this certificate shall be forwarded to the Central Agency provided for in Article 124.

Treatment, including the provision of any apparatus necessary for the maintenance of internees in good health, particularly dentures and other protheses, and spectacles, shall be free of charge to the internee.

**Article 80.** *Letter International Union for child Welfare.* See Annex No. 272.

**Article 82.** *Amdt. Holy See. 20.V.1949.* . . . . . **326**

Delete the entire Article and substitute the following:

“Internees shall enjoy complete liberty in the exercise of their religious duties, including attendance at the services of their faith, on condition that they comply with the disciplinary measures prescribed by the detaining authorities.

Ministers of religion, who are interned, shall be allowed to minister freely to the members of their community. For that purpose, the Detaining Power shall ensure their equitable allocation amongst the various places of internment. Should they be too few in number, the Detaining Power shall give them all facilities for moving from one place of internment to another, and they shall be authorized to visit the internees who are in hospital. Ministers of religion shall be at liberty to correspond on matters concerning their ministry with the ecclesiastical authorities in the country of detention.

If, among the internees, there is no minister of their faith, or if the latter should be too few in number, the Detaining Power and the local ecclesiastical authority shall appoint a minister of the internees’ faith who may be in that district, or, if such a course is feasible from a sectarian point of view, a minister of similar religion or a qualified layman. The latter shall enjoy the facilities granted to the ministry he has assumed.”

**Article 82.** *Text adopted by the Drafting Committee (Internment).* 16.VI.1949. . . . . **327**

*Religious duties*

Internees shall enjoy complete latitude in the exercise of their religious duties, including attendance at the services of their faith, on condition that they comply with disciplinary routine prescribed by the Detaining Authorities.

Ministers of religion, who are interned, shall be allowed to minister freely to the members of their community. For that purpose, the Detaining Power shall ensure their equitable allocation amongst the various places of internment in which there are internees speaking the same language and belonging to the same religion. Should such Ministers be too few in number, the Detaining Power shall provide them the necessary facilities, including means of transport, for moving from one place to another, and they shall be authorised to visit the internees who are in hospital. Ministers of religion shall be at liberty to correspond on matters concerning their ministry with the religious authorities in the country of detention and, as far as possible, with the international religious organizations of their faith. Such correspondence shall not be considered as forming a part of the quota mentioned in Article 96 but shall be subject to censorship according to Article 102.

Should there be internees who have not at their disposal the assistance of ministers of their faith, or should these latter be too few in number, the local religious authorities of the same faith may appoint, in agreement with the Detaining Power, a minister of the internees’ faith or, if such a course is feasible from a sectarian point of view, a minister of similar religion or a qualified layman. The latter shall enjoy the facilities granted to the ministry he has assumed. Persons so appointed shall comply with all regulations laid down by the Detaining Power in the interests of discipline and security.

	No.
<b>Article 83.</b> <i>Text adopted by the Drafting Committee</i> (Internment). 4.VI.1949. . . . .	<b>328</b>

The Detaining Power shall encourage intellectual, educational and recreational pursuits and sports amongst internees, while leaving them free to take part in them or not. It shall take all practicable measures to ensure the exercise thereof, in particular by providing suitable premises.

All possible facilities shall be granted to internees to continue their studies or to take up new subjects. The education of children and young people shall be ensured; they shall be allowed to attend schools either within the place of internment or outside.

Internees shall be given the opportunity for physical exercise, sports and outdoor games. For this purpose, open spaces shall be set aside in all places of internment. Special playgrounds shall be reserved for children and young people.

<b>Article 84.</b> <i>Amdt. Belgium.</i> 28.VI.1949 . . . . .	<b>329</b>
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The Belgian Delegation proposes the following alterations to the text adopted by the Drafting Committee:

“The Detaining Power shall take entire responsibility for all working conditions, for ensuring that all employed internees are insured against accidents and sickness due to their work, in conformity with its national legislation, for medical attention and the payment of wages. Wages for work done for employers other than the Detaining Power shall be determined by special agreements between the internees, the employers and the Detaining Power. Such agreements, however, shall not be more unfavourable than those obtained for work of the same nature in the same district. In determining wages, account should be taken of the fact that the Detaining Power has to provide for the internee’s maintenance and for the medical attention his state of health may require. Internees permanently detailed for the administration, kitchen, maintenance and medical services, and the work mentioned in paragraph 3, shall be paid fair wages by the Detaining Power and shall be insured by the said Power against working accidents. As regards internees thus detailed, the other working conditions and insurance benefits shall not be inferior to those generally applicable to work of the same nature in the same district.”

<b>Article 84.</b> <i>Text adopted by the Drafting Committee</i> (Internment). 8.VI.1949 . . . . .	<b>330</b>
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*Labour*

The Detaining Power shall not employ internees as workers, unless they so desire. Employment which, if undertaken under compulsion by a protected person not in internment, would involve a breach of Articles 37 and 47 of the present Convention, and employment on work which is of a degrading or humiliating character are in any case prohibited.

After a working period of six weeks internees shall be free to give up work at any moment, subject to eight days’ notice.

These provisions constitute no obstacle to the right of the Detaining Power to employ interned doctors, dentists and other medical personnel in their professional capacity and in behalf of their fellow internees, to employ internees for administrative and maintenance work in places of internment, to detail such persons for work in the kitchens or for other domestic tasks, or to require such persons to undertake duties directed to the protection of internees against aerial bombardment or other war hazards. No internee may, however, be required to perform tasks for which he is, in the opinion of a medical officer, physical unsuited.

The Detaining Power shall take entire responsibility for the payment of wages, for ensuring that all employed internees are insured against accidents whilst working, and for working conditions generally. Wages for work performed for employers other than the Detaining Power shall be determined by agreements between the internees, the employers and the Detaining Power. Internees permanently detailed for the administration, kitchen, maintenance and medical services shall be paid fair wages by the Detaining Power.

Working conditions and insurance benefits shall not be inferior to those generally applicable to work of the same nature in the same district.

**Article 84<sup>A</sup>.** *Amdt. Plen. Afghanistan, Belgium, Burma, Ethiopia, India, Mexico and Turkey.* 30.VII.1949 . . . . . **331**

Delete paragraph 4 and substitute the following in lieu thereof:

“The Detaining Power shall take entire responsibility for all working conditions, for medical attention, for the payment of wages, and for ensuring that all employed internees receive compensation for occupational accidents and diseases. The standards prescribed for the said working conditions and for compensation shall not be inferior to those obtaining for work of the same nature in the same district. Wages for work done shall be determined on an equitable basis, by special agreements between the internees, the Detaining Power, and, if the case arises, employers other than the Detaining Power. Internees permanently detailed for categories of work mentioned in paragraph 3 of this Article, shall be paid fair wages by the Detaining Power. The working conditions and the scale of compensation for occupational accidents and diseases to internees thus detailed, shall not be inferior to those applicable to work of the same nature in the same district.”

**Article 85.** *Text adopted by the Drafting Committee (Internment).* 4.VI.1949. . . . . **332**

All labour detachments shall remain part of and dependent upon a place of internment. The competent authorities of the Detaining Power and the commandant of this place of internment shall be responsible for the observance in the labour detachment of the provisions of the present Convention. The commandant shall keep an up-to-date list of the labour detachments subordinate to him, and shall communicate it to the delegates of the Protecting Power, of the International Committee of the Red Cross and of other humanitarian organizations who may visit the places of internment.

**Article 86<sup>1, 2</sup>.** *Amdt. United States of America.* 23.V.1949 . . . . . **333**

Delete paragraphs 1 and 2 and substitute the following:

“To the extent practicable, internees shall be permitted to retain their personal effects and personal articles. Monies, cheques, bonds, etc., and valuables in their possession may not be taken from them except in accordance with established procedures. Detailed receipts shall be given therefor.

The amounts shall be paid into the account of every internee subject to the provisions of Article 87.”

In paragraph four delete the words “in force under international law” from the first sentence.

**Article 86.** *Text adopted by the Drafting Committee (Internment).* 4.VI.1949. . . . . **334**

To the extent practicable, internees shall be permitted to retain their personal effects and personal articles. Monies, cheques, bonds, etc., and valuables in their possession may not be taken from them except in accordance with established procedures. Detailed receipts shall be given therefor.

The amounts shall be paid into the account of every internee subject to the provisions of Article 87. Such amounts may not be converted into any other currency unless either legislation in force in the territory in which the owner is interned so requires or the internee gives his consent.

Articles of a personal or sentimental value only may not be taken away.

On release or repatriation, internees shall be given all articles, monies or other valuables taken from them during internment and shall receive in currency the balance of any credit to their accounts kept in conformity with Article 87, with the exception of any articles or amounts withheld by virtue of the legislation in force. If internee property is so withheld, the owner shall receive a detailed receipt.

Family or identity documents in the possession of internees may not be taken away without a receipt given. At no time shall internees be left without identity documents. If they have none, they shall be given special documents issued by the detaining authorities, to serve as identity papers until the end of their internment. Internees may keep on their persons a certain amount of money, in cash or in the shape of purchase coupons, to enable them to make purchases.

**Article 87. Amdt. United States of America. 23.V.1949 . . . . . 335**

In paragraph 3, delete the first sentence and substitute the following:

“The Detaining Power shall open a regular account for every internee, to which shall be credited the allowances named in the present Article, the wages earned and the remittances received, together with such sums taken from him as may be available under the applicable alien enemy property laws.”

**Article 87. Text adopted by the Drafting Committee (Internment). 4.VI.1949 . . . . . 336**

All internees without adequate means shall receive regular allowances, sufficient to enable them to purchase goods and articles, such as tobacco, toilet requisites, etc. Such allowances shall take the form of credits or purchase coupons.

Furthermore, internees may receive allowances from their Home Power, the Protecting Powers, the bodies which may assist them, or their next of kin. The amount of the allowances granted by the Home Power shall, however, be identical for all internees belonging to the same category.

The Detaining Power shall open a regular account for every internee, to which shall be credited the allowances named in the present Article, the wages earned and the remittances received, together with such sums taken from him as may be available under the legislation in force in the territory in which the internee is interned. Internees shall be granted all facilities consistent with legislation in force in the territory in question to make remittances to their families and to other dependents. They may draw from their accounts the amounts necessary for their personal expenses, within the limits fixed by the Detaining Power. A statement of accounts shall be furnished to the Protecting Power, on request, and shall accompany the internee in case of transfer.

**Article 87. Text adopted by the Drafting Committee No. 2 (Internment). 25.VI.1949 . . . . . 337**

*Financial resources and individual accounts*

All internees without adequate means shall receive regular allowances, sufficient to enable them to purchase goods and articles, such as tobacco, toilet requisites, etc. Such allowances may take the form of credits or purchase coupons.

Furthermore, internees may receive allowances from their Home Power, the Protecting Powers, the bodies which may assist them, or their families. The amount of allowances granted by the Home Power shall be the same for each category of internees (infirm, sick, pregnant women, etc.) but may not be allocated by that Power or distributed by the Detaining Power on the basis of discriminations between internees which are prohibited by Article 25 of the present Convention.

The Detaining Power shall open a regular account for every internee, to which shall be credited the allowances named in the present Article, the wages earned and the remittances received, together with such sums taken from him as may be available under the legislation in force in the territory in which the internee is interned. Internees shall be granted all facilities consistent with legislation in force in the territory in question to make remittances to their families and to other dependents. They may draw from their accounts the amounts necessary for their personal expenses, within the limits fixed by the Detaining Power. A statement of accounts shall be furnished to the Protecting Power, on request, and shall accompany the internee in case of transfer.

**Article 94.** *Text adopted by the Drafting Committee (Internment).* 4.VI.1949 . . . . . **338**

Immediately upon interning protected persons, the Detaining Powers shall inform them, their Home Power and their Protecting Power of the measures taken for executing the provisions of the present Chapter. The Detaining Powers shall likewise inform the parties concerned of any subsequent modifications of such measures.

**Article 97.** *Text adopted by the Drafting Committee (Internment).* 9.VI.1949 . . . . . **339**

*Relief shipments. — I. General principles*

Internees shall be allowed to receive, by post or by any other means, individual parcels or collective shipments containing in particular foodstuffs, clothing, medicaments and articles of a devotional, educational and recreational character which may meet their needs. Such shipments shall in no way free the Detaining Power from the obligations imposed upon it by virtue of the present Convention.

Should military necessity require a limitation on the quantity of such shipments, due notice thereof shall be made to the Protecting Power, the International Committee of the Red Cross, or any other body giving assistance to the internees and which may be responsible for the forwarding of such shipments.

The conditions for the sending of individual parcels and collective shipments shall, if necessary, be the subject of special agreements between the Powers concerned.

**Article 100.** *Note Head Office of International Railway Transport.* See Annex No. 35.

**Article 100.** *Amdt. Belgium.* 25.V./27.VI.1949 . . . . . **340**

Amend the paragraphs 1 and 2 as follows:

“All shipments of relief for internees shall be exempt from import dues, customs dues and any other taxes or dues arising from importation.

Correspondence, relief shipments and remittances of money addressed to internees or dispatched by them through the post office, either direct or through the Information Bureau provided for in Article 123 and the General Information Agency provided for in Article 124, shall be exempt from postal dues in international postal traffic, in accordance with the provisions of the World Postal Convention and the agreements of the World Postal Union. Countries that are not party to certain of these agreements shall nevertheless be bound to grant exemption from postal charges in the same circumstances.

Exemption from postal dues granted to interned civilians of enemy nationality shall be extended to all the categories of internees mentioned in the present Convention.”

**Article 100.** *First text adopted by the Drafting Committee (Internment).* 8.VI.1949. . . . . **341**

*Exemption from postal and transport charges*

All shipments of relief for internees shall be exempt from import, customs and other dues.

All mails, including relief parcels sent by parcel post, and remittances of money addressed from other countries to internees or dispatched by them through the post office, either direct or through the information bureaux provided for in Article 123 and the Central Information Agency provided for in Article 124, shall be exempt from any postal dues both in the countries of origin and destination and in intermediate countries.

The cost of transporting relief shipments intended for internees and which, by reason of their weight or any other cause, cannot be sent through the post office, shall be borne by the Detaining Power in all the territories under its control. The other Powers party to the Convention shall bear the cost of transport in their respective territories.

Costs connected with the transport of such shipments, which are not covered by the above paragraphs shall be charged to the senders.

The High Contracting Parties shall endeavour to reduce, so far as possible, the charges for telegrams sent by internees, or addressed to them.

**Article 100.** *Second text adopted by the Majority of the Drafting Committee No. 2 (Internment).* 25.VI.1949 . . . . .

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*Exemption from postal and transport charges.*

All shipments of relief for internees shall be exempt from import, customs and other dues.

All mails including relief parcels sent by parcel post and remittances of money, addressed from other countries to internees or dispatched by them through the post office, either direct or through the information bureaux provided for in Article 123 and the Central Information Agency provided for in Article 124, shall be exempt from any postal dues both in the countries of origin and destination and in intermediate countries. To that effect, the exemptions provided for in the Universal Postal Convention of 1947 shall be extended to all the categories of internees mentioned in the present Convention.

The cost of transporting relief shipments intended for internees and which, by reason of their weight or any other cause, cannot be sent through the post office, shall be borne by the Detaining Power in all the territories under its control. Other Powers which are Parties to the Convention shall bear the cost of transport in their respective territories.

The costs incident to the transport of such shipments and which are not covered by the above paragraphs shall be charged to the senders.

The High Contracting Parties shall endeavour to reduce, so far as possible, the charges for telegrams sent by internees, or addressed to them.

**Article 100.** *Amdt. Plen. Belgium, India, Luxembourg, Turkey, Uruguay, Venezuela.* 3.VII.1949.

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Amend as follows the wording of the second sentence of the second paragraph of Article 100.

“To this effect, the exemption provided in particular by the Universal Postal Convention of 1947 and by the agreements of the World Postal Union in favour of civilians of every nationality detained in camps or civilian prisons, shall be extended to the other interned persons protected by the present Convention. The countries not signatory to the above-mentioned agreements shall be bound to grant the exemptions in the same circumstances.”

*Commentary.* — There should be no uncertainty with regard to the extent of the privileges granted. A mere reference to the World Postal Convention is not sufficient unless it is completed by a special mention of the agreements in force in virtue of the said Convention.

**Article 101.** *Text adopted by the Drafting Committee (Internment).* 15.VI.1949. . . . .

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Should military operations prevent the Powers concerned from fulfilling their obligation to assure the transport of the shipments provided for in Articles 95, 96, 97 and 103 of this Chapter, the Protecting Powers concerned, the International Committee of the Red Cross or any other body duly approved by the belligerents may undertake to ensure the conveyance of such shipments by suitable means (railway cars, motor vehicles, vessels or aircraft, etc.). The High Contracting Parties shall endeavour to supply them for that purpose with such means of transport, and to allow their traffic, in particular by granting them the necessary safe-conducts.

The said means of transport may also be used to convey:

(a) the correspondence, lists and reports dispatched by the Central Information Agency provided for in Article 124 to the National Bureaux provided for in Article 123, or forwarded by these Bureaux to the said Agency;

(b) the correspondence and reports relating to internees which the Protecting Powers, the International Committee of the Red Cross or any other body assisting the internees, exchange either with their own delegates or with the belligerents.

The costs occasioned by the use of these means of transportation shall be borne proportionally by the belligerents whose nationals are benefited thereby.

**Article 101\*.** *Amdt. Plen. United Kingdom.* 20.VII.1949. . . . . 345

Insert new paragraph between paragraphs 2 and 3 as follows:

“These provisions in no way detract from the right of any Party to the conflict to arrange other means of transport if it should so prefer, nor preclude the granting of safe-conducts, under mutually agreed conditions, to such means of transport.”

**Article 102.** *Text adopted by the Drafting Committee (Internment).* 8.VI.1949. . . . . 346

*Censorship and Control*

The censoring of correspondence addressed to internees or dispatched by them shall be effected as quickly as possible.

The examination of consignments intended for internees shall be carried out in conditions such as will not expose to damage the goods contained therein. It shall be done in the presence of the addressee, or of a fellow-internee duly delegated by him. The transmission to internees of individual or collective consignments shall not be delayed under the pretext of difficulties of censorship.

Any prohibition of correspondence ordered by the Parties to the conflict either for military or political reasons, shall only be temporary and its duration shall be as brief as possible.

**Article 103.** *Amdt. United Kingdom.* 30.V.1949. . . . . 347

Delete and substitute the following:

“All practicable facilities shall be afforded for the execution and authentication in due legal form of wills, powers of attorney, letters of authority, and any other documents purporting to grant any person powers of disposition over the property of an internee, and, where appropriate, for their transmission to another country.

In connection with the matters mentioned in this Article, internees shall on request be allowed to consult a lawyer.”

**Article 103.** *Text adopted by the Drafting Committee (Internment).* 13.VI.1949. . . . . 348

*Establishment and transmission of legal documents*

The Detaining Powers shall assure all reasonable facilities for the transmission, through the Protecting Power or the Central Agency provided for in Article 124 or as otherwise required, of wills, powers of attorney, letters of authority, or any other documents intended for internees or dispatched by them.

\* Article 101 of the Civilians Convention and Article 65 of the Prisoners of War Convention, deal with the transport of shipments of relief supplies, to internees and prisoners of war respectively. In practice, the same means of transports will probably be employed for both types of supplies and it is therefore clearly desirable that these two Articles should be in similar terms. The only difference at present existing between them is that Article 65 contains the paragraph included in the amendment now submitted whereas Article 101 does not. Both for reasons of uniformity and because it considers that this is an important provision the United Kingdom Delegation proposes that the amendment be accepted.

In any case they shall facilitate for internees the execution and authentication in due legal form of such documents, in particular by allowing them to consult a lawyer.

**Article 104.** *Text adopted by the Drafting Committee (Internment).* 9.VI.1949 . . . . . **349**

*Management of property*

The Detaining Power shall afford internees all facilities compatible with internment conditions and applicable law, to enable them to manage their property. The said Power may give them for that purpose permission to leave the camp in urgent cases and if circumstances allow.

**Article 105.** *Amdt. United Kingdom.* 30.V.1949 . . . . . **350**

Delete and substitute:

“In any case where an internee is a party to civil proceedings in any Court, the Detaining Power shall, if he so requests, cause the Court to be informed of his detention and shall, within legal limits, cause to be taken such steps as may be required to ensure that he is not prejudiced, by reason of his internment, in respect of the preparation and conduct of his case or of the execution of any judgment of the Court.”

**Article 106.** *Text adopted by the Drafting Committee (Interneent).* 9.VI.1949. . . . . **351**

*Visits*

In so far as circumstances permit, every internee shall be allowed to receive visitors, in particular their near relatives, periodically and as frequently as possible.

In urgent cases, and so far as possible, internees shall be permitted to visit their homes, particularly in cases of death or serious illness of relatives.

**Article 107.** *Amdt. Canada.* 30.IV.1949. . . . . **352**

Delete the first paragraph and substitute the following two paragraphs:

“Internees in the territory of a Party to the conflict who commit offences during internment are subject to the laws of the territory where they are detained, except for the provisions of the present Chapter.

Internees in occupied territory who commit offences during internment are subject to the laws of the occupied territory as well as the decrees, orders and regulations which may have been made by the Occupying Power, except for the provisions of the present Chapter.”

(The 2nd and 3rd paragraphs of Article 107 as printed in Document No. 4 will become the 3rd and 4th paragraphs).

**Article 108.** *Text adopted by the Drafting Committee (Internment).* 13.VI.1949 . . . . . **353**

*Penalties*

The courts or authorities shall, on passing sentence take as far as possible into account the fact that the defendant is not a national of the Detaining Power. They shall be free to reduce the penalty foreseen for the offence of which the internee is charged, and shall not be obliged, to this end, to apply the minimum sentence prescribed.

Imprisonment in premises without daylight, and in a general manner, all forms whatever of cruelty are forbidden.

Internees having served disciplinary or judicial sentences shall not be treated differently to other internees.

The duration of any preventive detention already undergone by an internee in connection with his offence shall be taken into due account in fixing any period of confinement to which he may be sentenced by way of judicial penalty.

Internee Committees shall be informed of all judicial proceedings instituted against internees whom they represent, and of their result.

**Article 108\***. *Amdts. Plen. United Kingdom. 29.VII.1949* . . . . . **354**

*Amendment No. 1, paragraph 1:*

Delete the first sentence of paragraph 1.

*Amendment No. 2, paragraph 1:*

Delete the second sentence and substitute:

“In occupied territories the courts or authorities of the Occupying Power shall be free to reduce the penalty provided for the offence with which an internee is charged, and shall not be obliged, to this end, to apply the minimum sentence prescribed.”

*Amendment No. 3, paragraph 4, (a) first version:*

Add after the words “to which he may be sentenced” “where such deduction is possible in the case of a national of the Detaining Power”.

*Amendment No. 3.*

(b) corrigendum

Delete paragraph 4 and substitute:

The duration of any period spent by an internee under arrest, pending disciplinary or judicial proceedings, shall be deducted from any penalty involving confinement or imprisonment to which he may be sentenced, provided that, in the case of judicial proceedings, such deduction shall be made only where it is possible in the case of a national of the Detaining Power.

\* So far as occupied territory is concerned the provision in the first sentence of paragraph 1 is a unnecessary repetition as the position in that regard is already fully secured by Article 58 of the Convention.

The proposal to apply such a provision to the home territory of a belligerent doubtless arises from the fact that a similar one is to be found in the case of the Prisoners of War Convention. This can only, however, be due to a complete misconception as the relevant position of prisoners of war and internees is fundamentally different. It is proposed to treat internees under this Convention in a manner far removed from that adopted in the case of prisoners of war.

There is, in fact, no justification to make such a provision applicable in the territory of a belligerent for the following reasons:

- (i) Under Article 70 of the Convention, internees will retain their full civil capacity and continue to exercise such attendant rights as may be compatible with their status.
- (ii) As a class, internees are persons who have entered, with the permission of that state, the country in which they are detained on the understanding that they will show good and loyal behaviour towards it. International Law accords no person so admitted, the right to remain if he violates such an obligation.
- (iii) Consequently in numerous countries, internees continue to receive the same protection of the law and subject to the due measures of control to which they are subject, retain substantially the same rights as those accorded to the citizens of the country of the Detaining Power.
- (iv) Thus to lay down in such circumstances, a stipulation of the kind proposed in the first sentence of the first paragraph of this Article would be, in effect, to treat the nationals from other countries in judicial process preferentially to the citizens of the home state—an insupportable position that could never be acquiesced to by countries that are proud in having taken the lead in throwing open their gates to those of other races throughout the world.

The foregoing arguments again apply to the application, in the home territory of a belligerent, of all the provisions contained in the second sentence of the first paragraph of this Article, with the additional factor that this would, in fact, involve a completely untenable departure from specific municipal law in cases where a minimum sentence is already prescribed by Statute.

Again, so far as occupied territory is concerned, the position sought to be secured in the fourth paragraph of this Article is already fully safeguarded by Article 59A but in the home territory of a belligerent, the preceding arguments further apply and in consequence, in order to render such a provision acceptable, the deduction could only be limited to any cases where the municipal legislation of the Power concerned would enable a minimum sentence to be reduced.

**Article 109.** *Text adopted by the Drafting Committee (Internment).* 13.VI.1949 . . . . . **No. 355**

*Disciplinary sanctions. Nature of penalties*

The disciplinary penalties applicable to internees shall be the following:

- (1) Fines up to and not exceeding fifty per cent of the allowance and wages which the internee would otherwise receive under the provisions of Articles 84 and 87 during a period of not more than 30 days;
- (2) Discontinuance of privileges granted over and above the treatment provided for by the present Convention;
- (3) Fatigue duties, not exceeding two hours daily, in connection with camp maintenance;
- (4) Confinement.

In no case shall disciplinary penalties be inhuman, brutal or dangerous for the health of internees. Account shall be taken of the internee's age, sex and state of health.

The duration of any single punishment shall in no case exceed thirty consecutive days. The said maximum of thirty days may not be exceeded, even should the internee, when his case is dealt with, be answerable for several breaches of discipline, whether such breaches are connected or not.

**Article 113.** *Text adopted by the Drafting Committee (Internment).* 13.VI.1949 . . . . . **356**

*Competent authorities and procedure*

Excepting the competence of courts and higher authorities, disciplinary punishment may be ordered only by the commandant of the place of internment, or by a responsible officer or official who replaces him, or to whom he has delegated his disciplinary powers.

Prior to any disciplinary sentence being pronounced the accused internee shall be informed precisely of the offences of which he is accused, and given an opportunity of explaining his conduct and of defending himself. He shall be permitted, in particular, to call witnesses and to have recourse, if necessary, to the services of a qualified interpreter. The decision shall be pronounced in the presence of the accused and of a member of the internee committee.

The period elapsing between the pronouncing of a disciplinary penalty and its execution shall not exceed one month.

When an internee is sentenced to a further disciplinary penalty, a period of three days at least shall elapse between the execution of any two of the punishments, if the duration of one of these is ten days or more.

A record of disciplinary punishments shall be maintained by the commandant of the place of internment and shall be open to inspection by representatives of the Protecting Power.

**Article 114.** *Text adopted by the Drafting Committee (Internment).* 13.VI.1949 . . . . . **357**

*Premises for disciplinary punishments*

Internees shall not in any case be transferred to penitentiary establishments (prisons, penitentiaries, convict prisons, etc.) to undergo disciplinary punishment therein.

The premises in which disciplinary punishments are undergone shall conform to sanitary requirements; they shall in particular be provided with adequate bedding. Internees undergoing punishment shall be enabled to keep themselves in a state of cleanliness.

Female internees undergoing disciplinary punishment shall be confined in separate quarters from male internees and shall be under the immediate supervision of a woman.

**Article 117. Amdt. Canada. 30.IV.1949 . . . . . 358**

Delete the 2nd paragraph and substitute the following:

“The Detaining Power shall supply internees during transfer with food and water sufficient in quality and variety to maintain good health; likewise with the necessary clothing and medical attention. The Detaining Power shall take adequate precautions, especially in the case of transport by sea and air, to ensure their safety during transfer and shall establish before their departure, a complete list of all internees transferred.”

**Article 117. Text adopted by the Drafting Committee (Internment). 13.VI.1949 . . . . . 359**

*Conditions*

The transfer of internees shall always be effected humanely. As a general rule, it shall be carried out by rail or other means of transport, and in conditions at least equal to those for the forces of the Detaining Power, in their changes of station. If exceptionally such removals have to be effected on foot, they may not take place unless the internees are in a fit state of health, and may not in any case expose them to excessive fatigue.

The Detaining Power shall supply internees during transfer with food and water sufficient in quantity, quality and variety to maintain good health; likewise with the necessary clothing, the adequate shelter and medical attention. The Detaining Power shall take all suitable precautions to ensure their safety during transfer, and shall establish before their departure a complete list of all internees transferred.

Sick, wounded or infirm internees and maternity cases shall not be removed if the journey would be seriously detrimental to them, unless their safety imperatively demands.

If the combat zone draws closer to a camp, the internees in the said camp shall not be transferred, unless their removal can be carried out in adequate conditions of safety, or if they are exposed to greater risks by remaining of the spot than by being transferred.

**Article 119<sup>1</sup>. Amdt. United States of America 24.V.1949 . . . . . 360**

Delete the first paragraph and substitute the following:

“The wills of internees shall be received for safe keeping by the responsible authorities and in the event of the internee’s demise shall be promptly transmitted to the persons previously designated by the internee.”

**Article 119. Amdt. Netherlands. 27.V.1949 . . . . . 361**

Insert the two following paragraphs at the conclusion of the Article:

“As soon as circumstances permit, and not later than the close of hostilities, the Detaining Power shall forward to the Powers on whom deceased internees depended, a list of graves of deceased internees buried in their cemeteries or elsewhere.

As soon as internees have been received on neutral territory, the neutral Powers in question shall become responsible towards the belligerents for carrying out the obligations specified in this Article.”

**Article 119. Amdt. United Kingdom. 30.V.1949 . . . . . 362**

Paragraph 1: Delete the paragraph.

Paragraphs 2 and 3: Delete and substitute the following:

“The Detaining Power shall take steps to ensure that on the death of an internee the necessary steps for recording the death officially, as prescribed for the population

generally of the territory in which the place of internment is situated, are duly taken, and that a certified copy of the relevant entry in the official record is forwarded to the representative of the Protecting Power.

Any case of sudden death of an internee, and any case in which the cause of death is uncertain, shall immediately be made the subject of an enquiry, of which due notice shall be given to the Protecting Power, and of which the result shall be notified to the Protecting Power."

**Article 119.** *Text adopted by the Drafting Committee (Internment).* 16.VI.1949 . . . . . **363**

*Wills, death certificates, burial, cremation*

The wills of internees shall be received for safe keeping by the responsible authorities and in the event of the internees' demise shall be promptly transmitted to the persons previously designated by the internee.

Deaths of internees shall be certified in every case by a doctor, and a death certificate shall be established, showing the causes of death and the conditions under which it occurred.

An official record of the death, duly registered, shall be drawn up in conformity with the procedure relating thereto in force in the territory where the place of internment is situated, and a duly certified copy of such record shall be transmitted promptly to the Protecting Power as well as to the Central Agency referred to in Article 124.

The Detaining Authorities shall ensure that internees dying in captivity are honourably buried, if possible according to the rites of the religion to which they belonged, and that their graves are respected, properly maintained, marked in such a way that they can always be recognized, and grouped as far as possible.

Deceased internees shall be buried individually, unless unavoidable circumstances require the use of collective graves. Bodies may be cremated only for imperative reasons of hygiene, or in consequence of the religion of the deceased, or if he or she has expressed the wish. In case of cremation, mention thereof shall be made on the death certificate of the deceased internee, with indication of the reasons.

As soon as circumstances permit, and not later than the close of hostilities, the Detaining Power shall forward through the Information Bureaux provided for in Article 123 to the Powers on whom deceased internees depended, lists of graves of deceased internees. Such lists shall include particulars necessary for the identification of the deceased internees as well as the exact location of their graves.

**Article 121.** *Text adopted by the Drafting Committee (Internment).* 16.VI.1949 . . . . . **364**

*During hostilities or during occupation*

All interned persons shall be released by the Detaining Power as soon as the reasons which necessitated their internment no longer exist.

The Parties to the conflict shall, moreover, endeavour during the course of hostilities, to conclude agreements for the release, repatriation, return to places of residence or accommodation in a neutral country of certain classes of internees, in particular children, pregnant women and mothers with infants and small children, wounded and sick and internees who have been detained for a long time.

**Article 122A.** *Text adopted by the Majority of the Working Party* . . . . . **365**

*Return to Domicile*

The High Contracting Parties shall endeavour, upon the close of hostilities or occupation, to facilitate the return to their last residence or to their country of origin of all internees.

*Note.* — Except for some modifications, this Article corresponds to the Canadian amendment (CIV. 68) to Article 127 of the Stockholm Draft. The Majority of the Working Party wishes to place it immediately before Article 122b, to which latter Article was therefore given the number 122B.

**Article 122A.** *Text adopted by the Drafting Committee No. 2. 25.VI.1949 . . . . .* 366

The Detaining Power shall bear the expense of returning released internees to the places at which they resided when interned, or, if it took them into custody while they were in transit or on the high seas, the cost of completing their journey or return to their point of departure.

A Detaining Power which refuses a released internee permission to reside in its territory shall pay the cost of his repatriation. If, however, the internee elects to return on his own responsibility or in obedience to the Government of his allegiance, the Detaining Power need not pay any costs beyond the point of his departure from its territory.

If internees are transferred pursuant to Article 41, the transferring and receiving Powers shall agree on the portion of the above costs to be borne by each.

The foregoing shall not prejudice such special agreements as may be concluded between belligerents concerning the exchange and repatriation of their nationals in enemy hands.

**Article 123.** *Text adopted by the Working Party. 12.VII.1949 . . . . .* 367

*National Bureaux: Establishment*

Upon the outbreak of a conflict and in all cases of occupation, each of the Parties to the conflict shall institute an official Information Bureau charged to receive and to transmit information for the protected persons who are in its power.

Each of the Parties to the conflict shall, within the shortest possible period, give its Bureau information of any measures taken by it concerning any protected persons kept in custody for more than two weeks, subjected to assigned residence or interned. It shall furthermore require its various departments concerned with such matters to provide the aforesaid Bureau promptly with information concerning all changes pertaining to these protected persons, as, for example, transfers, releases, repatriations, escapes, admittances to hospitals, births and deaths.

**Article 123A.** *Text adopted by the Working Party. 12.VII.1949 . . . . .* 368

*Transmission of information*

Each national Bureau shall immediately forward information concerning protected persons by the most rapid means available to the Powers of whom the aforesaid persons are nationals, or to Powers in whose territory they resided, through the Protecting Powers and, additionally, through the Central Agency provided for in Article 124. The Bureaux shall likewise reply to all enquiries which may be received regarding protected persons.

Information Bureaux shall transmit information concerning a protected person unless its transmission might be detrimental to the person concerned or to his or her relatives. Even in such case, the information may not be withheld from the Central Agency which, upon being notified of the circumstances, will take the necessary precautions outlined in Article 124.

All communications made by any Bureau shall be authenticated by a signature or a seal.

**Article 123B.** *Text adopted by the Working Party.* 12.VII.1949 . . . . . **369**

*Nature of information*

The information received by the Bureau and retransmitted by it shall be of such a character as to make it possible to identify the individual exactly and to advise quickly his next of kin. The information shall include for each person at least his or her surname, first name, place and date of birth, nationality, last residence, distinguishing characteristics, the first name of the father and maiden name of the mother, the date, place and nature of the action affecting the individual, the address through which correspondence may be sent to him or her and the name and address of the person to be informed.

Likewise, information regarding the state of health of internees who are seriously ill or seriously wounded shall be supplied regularly, every week if possible.

**Article 123C.** *Text adopted by the Working Party.* 12.VII.1949 . . . . . **370**

*Transmission of effects*

Each National Information Bureau shall furthermore be charged with collecting all personal valuables left by protected persons designated in Article 123 who in particular have been repatriated or released, or who have escaped or died, and shall forward the said valuables directly to those concerned or, if necessary, through the Central Agency. Such articles shall be sent by the Bureau in sealed packets. Detailed records shall be maintained of the receipt and despatch of all such valuables.

**Article 124.** *Text adopted by the Working Party.* 12.VII.1949 . . . . . **371**

*Central Agency*

A Central Information Agency for protected persons, in particular for internees, shall be created in a neutral country. The International Committee of the Red Cross shall, if it deems necessary, propose to the Powers concerned the organization of such an Agency, which may be the same as that provided for in Article 113 of the Convention relative to Prisoners of War.

The function of the Agency shall be to collect all information of the type set forth in Article 123 which it may obtain through official or private channels and to transmit it by the most rapid means to the countries of origin or of residence of the persons concerned, except in cases where such transmissions might be detrimental to the persons whom the said information concerns, or to their relatives. It shall receive from the Parties to the conflict all reasonable facilities for effecting such transmissions.

The High Contracting Parties, and in particular those whose nationals benefit by the services of the Central Agency, are requested to give the said Agency the financial aid it may require.

The foregoing provisions shall in no way be interpreted as restricting the humanitarian activities of the International Committee of the Red Cross and of the relief societies described in Article 127.

**Article 125.** *Text adopted by the Working Party.* 12.VII.1949 . . . . . **372**

*Exemption from charges*

The National Information Bureaux and the Central Information Agency shall enjoy free postage for all mail, likewise the exemptions provided for in Article 100, and further, so far as possible, exemption from telegraphic charges, or at least greatly reduced rates.

**Article 125A. Amdt. Holy See. 23.V.1949. . . . . 373**

Subject to the measures which the Detaining Powers may consider essential to ensure their security or meet any other reasonable need, the representatives of religious societies, relief societies or any other body assisting the protected persons, shall receive from these Powers, for themselves or their duly accredited agents, all facilities for visiting the protected persons, distributing relief supplies and material from any source intended for educational, recreative and religious purposes, or for assisting them in organizing their leisure-time within the places of internment. Such societies or bodies may be constituted in the territory of the Detaining Power, or in any other country, where they may have an international character.

The Detaining Power may limit the number of societies and bodies whose delegates are allowed to function in its territory and under its supervision, on condition, however, that such limitation shall not hinder the supply of effective and sufficient relief to all protected persons.

The special position of the International Committee of the Red Cross in this field shall be recognized and respected at all times.

**Article 126A. Amdt. United Kingdom. I.VII.1949. . . . . 374**

Insert new Article as follows:

“Derogations from the present Convention shall be permissible only:

- (a) where exceptions to the present Convention are rendered inevitable by the circumstances existing at the commencement of a conflict or occupation;
- (b) where exceptional circumstances arise which make it impossible, for the time being to carry out in full the provisions of the present Convention.

Nevertheless, these exceptions shall not infringe the fundamental principles of the present Convention, and shall cease from the time at which the circumstances necessitating such exceptions are no longer in being.”

**Article 127. Text of the Minority of the Working Party. See Annex No. 227.**

**Article 38/42/II7/128. Text adopted by the Special Committee. See Annex No. 48.**

**Article 128. Amdt. Canada. See Annex No. 8.**

**Articles 39-40/43-44/II9/130. Amdt. Netherlands, etc. See Annex No. 49.**

**Article 39/43/II9<sup>1</sup>/130<sup>2</sup>. Amdt. Canada. See Annex No. 8.**

**Article 40/44/II9<sup>2</sup>/130<sup>2</sup>. Amdt. Canada. See Annex No. 8.**

**Articles 39-40/43-44/II9/130. Correction by I.C.R.C. See Annex No 50.**

**Article 40/44/II9/130. Amdt. Denmark. See Annex No. 54.**

**Article 39/43/II9/130. Amdt. France. See Annex No. 52.**

**Article 39 43 II9 130. Text by the Special Committee. See Annex. No. 51.**

**Article 39/43/II9/130.** *Amdt. Plen. U.S.S.R.* See Annex No. 53.

**Article 39/43/II9/130.** *Amdt. Plen. U.S.S.R.* See Annex No. 53A.

**Article 40/44/II9A/130A.** *Amdt. Plen. U.S.S.R.* See Annex No. 53A.

**Article 40/44/II9A/130A.** *Text adopted by the Special Committee.* See Annex No. 55.

**Article 40A/44A/II9B/130B.** *Text adopted by the Special Committee.* See Annex No. 56.

**Article 135\*.** *Text adopted by the Drafting Committee.* 5.VII.1949 . . . . . 375

*Relations with previous Conventions*

In the relations between the Powers who are bound by the Hague Conventions relative to the laws and customs of war on land, whether that of 29 July, 1899, or that of 18 October, 1907, and who are Parties to the present Convention, this last Convention shall be supplementary to Sections II and III of the Regulations annexed to the aforesaid Hague Conventions.

**Article 135.** *Extract from the draft report of Committee III to Plen. Assembly* . . . . . 376

Article 135 deals with the regulations between our Convention and those of the Hague; and here the question is one of great difficulty. The Stockholm Draft laid down that our Convention was to replace, in respect of the matters treated therein, the Convention of the Hague. The Committee preferred the following wording proposed by the Norwegian Delegation: our Convention "shall be supplementary to Sections II and III of the Regulations annexed to the aforesaid Hague Conventions". This wording is cautious in that it does not attempt to indicate any limitation between the two Conventions, neither does it seek to establish a hierarchy; any such attempt, in a field as complex as this, would be a singularly dangerous undertaking.

Thus, the two Conventions continue to exist and to remain in force side by side; certain points which the Hague Convention deals with summarily are developed in more detail in our Convention, which is in exact accord with the expression "shall be supplementary to", appearing in Article 135.

Should any contradiction arise between the effect of the Hague text and that of our Convention, the interpretation should settle the difficulty in accordance with accepted legal principles, in particular in accordance with the rule that in law, the later supersedes the earlier.

**Article 51/54/129/139.** *Text adopted by the Special Committee.* See Annex No. 57.

**Article 52/55/130/140.** *Text adopted by the Special Committee.* See Annex No. 58.

**Annex I.** *Amdt. Netherlands.* 7.VII.1949. . . . . 377

Replace the text of Annex I by the following:

*Regulations relative to hospital and safety zones and localities.*

*Article 1. — Persons benefited*

Hospital and safety zones and localities shall be strictly reserved for the persons designed in Article 18 of the Geneva Convention relating to the Wounded and Sick, as

\* The Drafting Committee adopted this text unanimously.

well as to military medical personnel and to persons designated in Article 12 of the Convention relating to the protection of Civilians.

Notwithstanding, persons whose permanent domicile lies within the zone or locality thus created as a hospital and safety zone or locality, shall have the right to remain there.

*Article 2. — Prohibited labour*

No persons residing, in whatever capacity, in a hospital or safety zone or locality, shall perform any work, either within or without the zone, which is directly connected with military operations or the production of war material.

*Article 3. — Prohibition of Access*

The Power creating a hospital or safety zone or locality shall take all necessary measures to prohibit access to persons who have no right of entry or of residence therein by virtue of Articles 1 and 2 of the present regulation.

*Article 4. — Conditions*

The said hospital and safety zones or localities shall fulfil the following conditions:

- (a) they shall not constitute more than a small area of the territory governed by the Power on which they depend.
- (b) they shall be thinly populated in relation to the opportunities of accommodation.
- (c) they shall be removed and free from all military objectives, or large industrial or administrative establishments.
- (d) they shall not be located in areas which, according to every probability, may become important for the conduct of the war.

*Article 5. — Obligations*

They shall be subject to the following obligations:

- (a) The lines of communication and means of transport which they possess shall only be used for the transportation of all necessary supplies for the zone or locality, or for those supplies which are superfluous in the zone or locality, including arriving and departing soldiers on leave between the hours of 10 a.m. and 2 p.m. precisely.
- (b) They shall in no circumstance be defended by any military means.
- (c) The same conditions shall apply to the atmosphere above these zones or localities.

*Article 6. — Marking*

They shall be marked by means of oblique red bands on a white ground, placed on the buildings and outer precincts.

They may be similarly marked at night by means of appropriate illumination.

Zones or localities reserved exclusively for the wounded and sick may be marked by means of the Red Cross emblem (Red Crescent, Red Lion and Sun).

*Article 7. — Protection*

The zones or localities shall not be attacked in any manner whatsoever.

In time of war, access to these zones or localities shall be prohibited to the armed forces of the enemy.

*Article 8. — Supervision*

In time of peace already

- (a) The High Contracting Parties, after receipt of the communication mentioned in Article 12 of the Civilians Convention, shall have the right to instruct their diplomatic personnel accredited to the Power which has decided to create one or several zones or localities, to visit them as frequently as they desire.

*Article 9. — Sanctions*

If the Protecting Powers ascertain any facts which they deem contrary to the provisions of the present Agreement, they shall at once draw the attention of the Power governing the zone or locality thereto, and shall grant it a period of five days to regulate the matter. They shall duly notify the Power whose interests they protect.

If, on expiration of the said period, the Power governing the zone or locality has not complied with the above warning, the adverse party may declare that it is no longer bound by the present regulation in respect of the said zone or locality.

*Article 10. — Occupation*

If a territory is occupied, the hospital or safety zones or localities therein shall continue to be respected and utilized as such.

Their use may, however, be modified by the Occupying Power, on condition that all measures are taken to ensure the security of the persons they accommodate.

**Annex I. Draft adopted by Drafting Committee No. 2. 12.VII.1949 . . . . .****378***Article 1. — Persons benefited*

Hospital and safety zones shall be strictly reserved for the persons designated in Article 18 of the Geneva Convention relating to the sick and wounded, and in Article 12 of the Convention relating to the protection of civilians, and for the personnel entrusted with the organization and administration of these zones and localities, and with the care of the persons therein assembled.

Nevertheless, persons whose permanent residence is within the zone thus constituted shall have the right to stay there.

*Article 2. — Prohibited Work*

No persons residing, in whatever capacity, in a hospital and safety zone shall perform any work, either within or without the zone, which is directly connected with military operations or the production of war material.

*Article 3. — Prohibition of access*

The Power establishing a hospital and safety zone shall take all necessary measures to prohibit access to all persons who have no right of residence or entry therein.

*Article 4. — Conditions*

Hospital and safety zones shall fulfil the following conditions:

- (a) They shall constitute only a small area of the territory governed by the Power on which they depend.
- (b) They shall be thinly populated in relation to the possibilities of accommodation.
- (c) They shall be far removed and free from all military objectives, or large industrial or administrative establishments.
- (d) They shall not be situated in areas which, according to every probability, may become important for the conduct of the war.

*Article 5. — Obligations*

They shall be subject to the following obligations:

- (a) The lines of communication and means of transport which they possess shall not be used for the transport of military personnel or material, even in transit.
- (b) They shall in no case be defended by military means.

*Article 6. — Markings*

They shall be marked by means of oblique red bands on a white ground, placed on the buildings and outer precincts.

Zones reserved exclusively for the wounded and sick may be marked by means of the Red Cross emblem (Red Crescent, Red Lion and Sun) on a white ground.

They may be similarly marked at night by means of appropriate illumination.

*Article 7. — Notification and opposition*

The Powers shall communicate to all the Contracting Parties, not later than on the outbreak of hostilities a list of the hospital and safety zones in the territories governed by them. They shall also give notice of any new zones set up during hostilities.

As soon as the adverse Party has received the above mentioned notification, the zone shall be regularly constituted.

If, however, the adverse Party considers that the conditions of the present agreement have not been fulfilled, it may refuse to recognize the zone by giving immediate notice thereof to the Party responsible for the said zone; or may make its recognition of such zone dependent upon the institution of the control provided in Article 8.

*Article 8. — Inspection*

Any power having recognized one or several hospital and safety zones instituted by the adversary shall be entitled to demand control by the Power protecting its interests, to ascertain if the zones fulfil the conditions and obligations stipulated in the present agreement.

To this effect the representatives of the Protecting Power shall at all times have free access to the various zones and may even reside there permanently. They shall be given all facilities for their duties of inspection.

*Article 9. — Sanctions*

Should the Protecting Powers note any facts which they consider contrary to the stipulations of the present agreement, they shall at once draw the attention of the Power governing the said zones to these facts, and shall fix a time-limit of five days to settle the matter. They shall duly notify the Power whose interests they protect.

If, when the time-limit has expired, the Power governing the zone has not complied with the warning, the adverse Party may declare that it is no longer bound by the present agreement in respect of the said zone.

*Article 10. — Respect of Zones*

In no circumstances may hospital and safety zones be the object of attack. They shall be protected and respected at all times by the Parties to the conflict.

*Article 11. — In case of Occupation*

In the case of occupation of a territory, the hospital and safety zones therein shall continue to be respected and utilized as such.

Their purpose may, however, be modified by the Occupying Power, on condition that all measures are taken to ensure the safety of the persons accommodated.

*Article 12. — Localities*

The present agreement shall also apply to localities which the Powers may utilize for the same purposes as hospital and safety zones.

**Annex I. Amdt. Plen. Burma. 20. VII. 1949 . . . . .****379**

The markings proposed in *Article 6* do not provide the significance necessary to secure good repute and universal recognition. They also create the acceptance for a plurality of emblems which is deplorable.

The markings proposed by this amendment provide the required significance and also make plurality impossible.

The "circle" represents "the right to live—the uninterrupted of one's life".

The adoption of the yellow or amber to differentiate the civilian safety zone from the wounded and sick is also suggested. Red is suggested as the colour for the latter.

#### *Article 6*

In the first sentence for "oblique red bands" substitute "a yellow (or amber) circle".

In the second sentence for "the Red Cross emblem" (Red Crescent, Red Lion and Sun) substitute "a red circle".

### **Annex I. *Amdt. Plen Switzerland. 21.VII.1949* . . . . . 380**

#### *Article 8*

First paragraph: Delete "... control by the Powers protecting its interests ...".  
Substitute "... control by one or more Special Committees ...".

Second paragraph: Delete "... the representatives of the Protecting Power ...".  
Substitute: "... members of the Special Committees ...".

#### *Article 9*

First paragraph: Replace "Protecting Powers" by "Special Committees".

Add a fresh Article 9A.

"Any Power setting up one or more hospital and safety zones, and the adverse Parties to whom their existence has been notified, shall nominate or have nominated by neutral Powers, the persons who shall be members of the Special Committees mentioned in Articles 8 and 9."

### **Annex II. *Text adopted by the Drafting Committee (Internment). 16.VI.1949* . . . . . 381**

#### *Article 1*

The Internee Committees shall have permission to distribute collective relief shipments for which they are responsible, to all internees who are, administratively speaking, dependent of the said Committees' place of internment as well as to those internees who are in hospital, in prison or in other penitentiary establishments.

#### *Article 2*

The distribution of collective relief shipments shall be effected in conformity with the instructions of the donors and with the plan drawn up by the Internee Committees. The distribution of medical stores shall, however, be made preferably in agreement with the senior medical officers, and the latter may, in hospitals and infirmaries, override the said instructions, in so far as the needs of their patients demand. Within the limits thus defined, distribution shall always be made equitably.

#### *Article 3*

To enable members of Internee Committees to check the quality and quantity of the goods received and to make detailed reports thereupon for the donors, the said Committee members shall have permission to proceed to the railway station or other places of arrival near their places of internment, where the shipments of collective supplies reach them.

*Article 4*

Internee Committees shall be given the necessary opportunities of verifying whether the distribution of collective relief supplies in all subdivisions and annexes of their places of internment has been made in conformity with their instructions.

*Article 5*

Internee Committees shall be permitted to complete and to have completed by members of the Internee Committees in labour detachments or by the senior medical officers of infirmaries and hospitals, forms or questionnaires intended for the donors, relating to collective relief supplies (distribution, requirements, quantities, etc.). Such forms and questionnaires, completed accordingly, shall be forwarded to the donors without delay.

*Article 6*

In order to ensure the regular distribution of collective relief supplies to the internees in their place of internment, and eventually to meet the needs which may arise through the arrival of fresh parties of internees, the Internee Committees shall be permitted to create and maintain sufficient reserve stocks of collective relief supplies. For that purpose, they shall have adequate warehouses; each warehouse shall be provided with two locks, the Internee Committee to hold the keys of one lock, and the commandant of the place of internment the keys of the other.

*Article 7*

The High Contracting Parties and the Detaining Powers in particular shall, so far as in any way possible and subject to the regulations governing the food supply of the population, allow purchases of goods to be made in their territories, for the distribution of collective relief supplies to the internees. They shall likewise facilitate the transfers of funds and any other financial measures of a technical and administrative nature which are taken for the purpose of making such purchases.

*Article 8*

The above provisions constitute no obstacle to the right of internees to receive collective relief before their arrival in a place of internment, or during their transfer. Furthermore, the said provisions shall not be a hindrance to any opportunity for the representatives of the Protecting Power, the International Committee of the Red Cross, or any other humanitarian body giving assistance to internees which may be responsible for the forwarding of such supplies, to ensure the distribution to the recipients by any other means they may deem suitable.

1. Obverse

	CIVILIAN INTERNEES MAIL	Postage free
<b>POST CARD</b>		
<p style="text-align: center;"><b>IMPORTANT</b></p> <p>This card must be filled out by each internee immediately on being interned and each time his address is altered by reason of transfer into a place of internment or into a hospital.</p> <p>This card is distinct from the particular card which each internee is allowed to send to his relatives.</p>	<p><b>CENTRAL INFORMATION AGENCY FOR PROTECTED PERSONS</b></p> <p><b>INTERNATIONAL COMMITTEE OF THE RED CROSS</b></p>	

2. Reverse

<b>INTERMENT CARD</b>		
Write legibly and in block letters. — 1. Nationality		
2. Name	3. First name (in full)	4. First name of Father
.....		
5. Date of Birth	6. Place of Birth	
.....		
7. Occupation		
.....		
8. Address before detention		
.....		
9. Address of next of kin		
.....		
*10. Interned on: (or) Coming from (hospital, etc.)		
.....		
*11. State of health		
.....		
12. My present address		
.....		
13. Date	14. Signature	
.....		
*Strike out what is not applicable — Do not add any remarks — See explanations overleaf.		





<b>Fifth Report from the Credentials Committee</b> 3.VIII.1949 . . . . .	<b>No. 383</b>
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(1) *Examination of the credentials of four Delegations*

The CHAIRMAN recalled that, during the last meeting, the Committee had ascertained that the Delegations of the Argentine, Brazil, China and Ecuador had so far presented provisional documents only. Since then, these Delegations have submitted regular credentials to the Secretariat of the Conference.

After examination, the Committee decided to propose to the Plenary Meeting that the validity of these documents should be recognized.

(2) *Questions relating to the signature of the Conventions*

The CHAIRMAN pointed out that up to the present forty-two Delegations had presented credentials expressly authorizing them to sign the Conventions. There are other cases in which it may be admitted that the credentials presented implicitly authorize their holders to sign the Conventions. Lastly, the credentials of certain Delegations do not at first sight appear to go further than authorizing their holders to take part in the work of the Conference.

The Chairman recalled that the Plenary Meeting had decided on the proposal of the Bureau that there should be two ceremonies for the signature, one to take place at the end of the Conference, and the other during the month of December, without to the rule appearing in Articles 44/47/123/132, which provides for the signature of Conventions within six months from the closure of the Conference.

Any credentials giving authority to sign the Conventions which may be presented after the closure of the Conference would require to be examined either by a Credentials Committee constituted at the time of the ceremony to be held in December, or by the Swiss Government.

*The meeting rose at 10.45 a.m.*

<b>Acte Final: Report by the Working Party.</b> 4.VIII.1949 . . . . .	<b>384</b>
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The Working Party entrusted with the drafting of the Final Act of the Conference proposes the adoption of the following text:

FINAL ACT  
of the  
DIPLOMATIC CONFERENCE  
convened for the revision of the  
Geneva Convention of July 27, 1929,  
for the Relief of the Wounded and Sick  
in Armies in the Field  
of the  
Xth Hague Convention of October 18, 1907,  
for the Adaptation to Maritime Warfare  
of the Principles of the Geneva Convention of 1906  
of the  
Convention concluded at Geneva on July 27, 1929,  
relative to the Treatment of Prisoners of War  
and for the establishment of a  
Convention for the Protection of Civilians in Time of War

The Conference convened by the Swiss Federal Council for the purpose of revising :  
 the Geneva Convention of July 27, 1929 for the Relief of the Wounded and Sick in Armies in the Field,  
 the Xth Hague Convention of October 18, 1907 for the Adaptation to Maritime Warfare of the Principles of the Geneva Convention of 1906,  
 the Geneva Convention of July 27, 1929 relative to the Treatment of Prisoners of War, and  
 to establish a Convention for the Protection of Civilians in Time of War,  
 deliberated from April 21 to August . . . , 1949, at Geneva, on the basis of the four Draft Conventions examined and approved by the XVIIth International Red Cross conference held at Stockholm.

The Conference established the texts of the following Conventions:

- I. Geneva Convention for the Relief of the Wounded and Sick in Armies in the Field.
- II. Geneva Convention for the Relief of the Wounded, Sick and Shipwrecked Members of Armies on Sea.
- III. Geneva Convention relative to the Treatment of Prisoners of War.
- IV. Geneva Convention for the Protection of Civilians in Time of War.

The present Act establishes the authenticity, in English and French, of the texts of the said Conventions attached to it. The official translation of the same Conventions into Russian and Spanish will be made through the good offices of the Swiss Federal Council.

The Conference further adopted the following resolutions and recommendations which are also attached to the present Act:

IN WITNESS WHEREOF, the undersigned, duly authorized by their respective Governments, have signed this present Final Act.

DONE at Geneva, August . . . , 1949, in the English and French languages, the original and its accompanying documents to be deposited in the Archives of the Swiss Confederation.

The Working Party further recommends that the Conference should adopt the following titles for the four Conventions:

## I

### GENEVA CONVENTION

FOR THE RELIEF OF THE WOUNDED AND SICK  
 IN ARMIES IN THE FIELD  
 OF . . . AUGUST 1949

The undersigned, Plenipotentiaries of the Governments represented at the Diplomatic Conference held at Geneva from 21 April to . . . August 1949, for the purpose of revising the Geneva Convention for the Relief of the Wounded and Sick in Armies in the Field of July 27, 1929, have agreed as follows:

## II

### GENEVA CONVENTION

FOR THE RELIEF OF WOUNDED, SICK AND SHIPWRECKED MEMBERS  
 OF ARMED FORCES ON SEA  
 OF . . . AUGUST 1949

The undersigned, Plenipotentiaries of the Governments represented at the Diplomatic Conference held at Geneva from 21 April to . . . August 1949, for the purpose of revising the Xth Hague Convention of October 18, 1907 for the Adaptation to Maritime Warfare of the Principles of the Geneva Convention of 1906, have agreed as follows:

## III

## GENEVA CONVENTION

RELATIVE TO THE TREATMENT OF PRISONERS OF WAR  
OF .. AUGUST 1949

The undersigned, Plenipotentiaries of the Governments represented at the Diplomatic Conference held at Geneva from 21 April to August 1949, for the purpose of revising the Convention concluded at Geneva on July 27, 1929, relative to the Treatment of Prisoners of War, have agreed as follows:

## IV

## GENEVA CONVENTION

FOR THE PROTECTION OF CIVILIANS IN TIME OF WAR  
OF .. AUGUST 1949

The undersigned, Plenipotentiaries of the Governments represented at the Diplomatic Conference held at Geneva from 21 April to .. August 1949, for the purpose of establishing a Convention for the Protection of Civilians in Time of War, have agreed as follows:

**Final Act of the Conference. *Amdt. Plen. U.S.S.R.* 8.VIII.1949 . . . . . 385**

Delete the sentence:

“The present Act establishes the authenticity, in English and French, of the texts of the said Conventions attached to it.”

and substitute:

“The said Conventions are established in the English and French languages.”

**Final Act of the Conference. *Proposal of the President.* 8.VIII.1949 . . . . . 386**

Referring to the amendment submitted by the Delegation of the Union of Soviet Socialist Republics (*see former Annex*), the President proposes to replace, in the Final Act, the following phrase:

“The present Act establishes the authenticity in English and French of the text of the Third Convention attached to it.”

by:

“These Conventions, the text of which has been established in the French and English languages, are attached to the present Act.”

**Draft Resolution. *Plen. Australia.* 6.VIII.1949 . . . . . 387**

Whereas Article 60 of the Geneva Convention relative to the Treatment of Prisoners of War concerning prisoners of war who have been without news for a long period, or who are unable to receive news from their next of kin or give them news by the ordinary postal route, as well as those who are at a great distance from their home, shall be permitted to send telegrams especially in cases of urgency, the fees being charged against the prisoner's of war accounts with the Detaining Power or paid in the currency at their disposal; and

Whereas it is necessary to reduce the often prohibitive cost of such telegrams or cables, it is considered that some method of grouping messages should be introduced whereby a series of short specimen messages covering personal health, health of relatives at home, schooling, finance, etc. could be drawn up and numbered, for use by prisoners of war in the circumstances mentioned in the first paragraph.

The Conference, therefore, requests the International Committee of the Red Cross to prepare a series of specimen messages covering these aspects and to submit them to the High Contracting Parties for their approval.

	No.
<b>Draft Resolution. <i>Burma and India.</i> 3.VIII.1949 . . . . .</b>	<b>388</b>

*Distinctive Civilian Emblem*

That this Conference:

Desiring to prevent abuse of the emblem designed to protect the wounded and sick and medical personnel of the armed forces; and

Desiring to avoid confusion between the armed forces of a belligerent and the civilian population; and

Recognizing the advantages to be derived from a universal symbol for protected civilian activities.

Invites the Governments of all States represented at this Conference to consider the proposal of the Delegate of Burma, that the protective emblem for civilian hospitals, ambulances and medical personnel, etc., should be a red circle on a white ground, signifying the continuity of respect for human life.

<b>Draft Resolution. <i>Plen. Denmark.</i> 29.VII.1949 . . . . .</b>	<b>389</b>
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The Delegation of Denmark proposes the following resolution for adoption by the Plenary Meeting:

“The question whether a Party to the conflict which is not a State should be recognized by Parties not taking part in the conflict is to be decided upon according to the general rules of International Law on the subject, and shall not be governed by the Conventions established at the present Conference.”

<b>Draft Resolution. <i>Plen. Italy.</i> 29.VII.1949. . . . .</b>	<b>390</b>
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In view of the fact that the present Conference has not raised the question of the technical study of means of communication between hospital ships on the one hand and warships and military aircraft on the other, since that study went beyond its terms of reference;

And that this question is of the greatest importance for the safety of hospital ships and the efficacious performance of their duty;

This Conference expressed the hope that the High Contracting Parties will, in the near future, instruct a Committee of Experts to examine technical improvements of modern means of communication between hospital ships on the one hand and warships and military aircraft on the other, and the establishment of an International Code laying down precise regulations for the use of those means, in order that hospital ships may enjoy the maximum of protection and efficacy.

<b>Draft Resolution. <i>Plen. Italy.</i> 4.VIII.1949 . . . . .</b>	<b>391</b>
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## The Conference

considers that the stipulations established by the Geneva Convention, and governing the situation of Relief Societies attached to armies in the field, are applicable to the National Organizations of the Sovereign and Military Order of St John of Jerusalem, and of Malta.

The same shall apply to the Grand Priority of St John of Jerusalem in England, the Orders of St John (Johanniter) and St George in Germany, and similar Hospitaller Orders in all countries.

**Draft Resolution. *Plen. Mexico.* 6.VIII.1949 . . . . . 392**

## The Conference

The Geneva Conventions having been drawn up in an atmosphere of complete harmony, and a spirit of unflinching cooperation and comprehension on the part of all the Delegations, inspired by a single great ideal, namely to spare the victims of war all possible suffering

Wishes to affirm to all people of the world that:

its work has been guided solely by humanitarian aims, and for that reason expresses the hope that it may never become necessary to apply these Conventions.

its greatest wish is that the Powers, great and small, shall allways find some means of adjusting their differences by international cooperation and comprehension, so that Peace shall prevail on earth for ever.

**Draft Resolution. *Plen. Nicaragua.* 6.VIII.1949 . . . . . 393**

The Diplomatic Conference for the establishment of International Conventions for the Protection of War victims

- (1) invites the supreme Authority of the International Red Cross, that is, the International Red Cross Conference, to consider at its next meeting the creation of the new Red Cross emblem and to make a decision in this matter;
- (2) the Diplomatic Conference likewise invites the International Red Cross Conference to submit the Draft which it has drawn up on the subject, together with an explanatory commentary, to the Governments of the States represented at the present Diplomatic Conference of Geneva, through the National Red Cross Societies united under the League of Red Cross Societies. Moreover, the aforementioned International Red Cross Conference should request the Governments to make a decision within six months at the most. In the event of the Draft being adopted by a majority of Governments, the Swiss Federal Council is invited to convene a further Diplomatic Conference to revise the Conventions adopted at Geneva in 1949 in the spirit of the Draft adopted by the International Red Cross Conference;
- (3) the Diplomatic Conference requests the International Red Cross Conference to bear in mind in its discussion the following guiding principles:
  - (a) the basic design of the emblem to be created should be universal in character;
  - (b) the name "Red Cross" should be retained, on one hand as a tribute to Switzerland, the home of this noble and generous idea, on the other hand in the interests of the prestige or, as Mr. Pictet so admirably puts it in his pamphlet, "the mystical significance of the Red Cross emblem", which has steadily grown since its creation in 1863. The name should also be retained because it has embodied throughout the world, for nearly a century, the spirit of brotherly love;
  - (c) at the same time, it is essential to leave every State free to include its own emblem within this universal emblem, in order to strengthen the spirit of brotherly love among its people and thereby promote the activities which it inspires. This individual emblem must not, under any circumstances, represent the coat-of-arms of a State;
  - (d) the new emblem should be considerably more conspicuous than the present emblem, in order to make it more clearly visible from the air;
  - (e) the new emblem conferring protection should, if possible, replace the former emblem without involving great expense, for it must be borne in mind that it will have to appear on the flags, armbands and all the equipment of the medical service.
- (4) The Diplomatic Conference considers that the best means of putting these guiding principles into effect would be to leave a white space in the center of the cross (the

space would be in the form of a square or circle). The States would then be free to leave this space blank, to use it to enclose their own emblem or to disregard it, by retaining the Red Cross in its original form.

*Justifying Commentary:*

The mere fact that the present Conference has been convened, justifies the assumption that the time has not yet come when nationals will resort to other means than warfare in order to settle their differences. This is all the more to be deplored since modern warfare makes use of ever more terrible weapons, and spares neither women, children nor old people. War has thus assumed an aspect of cruelty such as the world has never before seen.

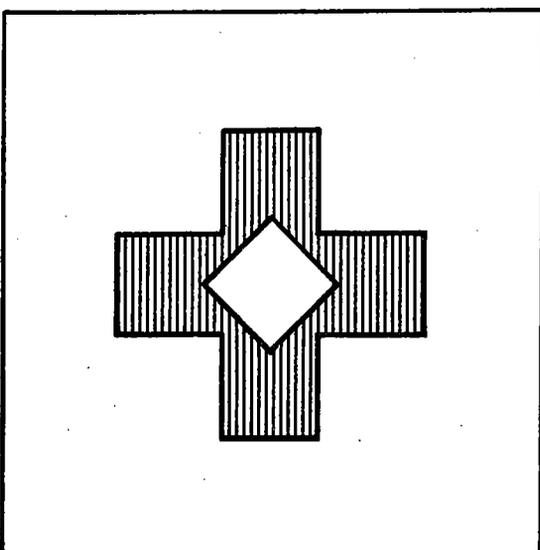
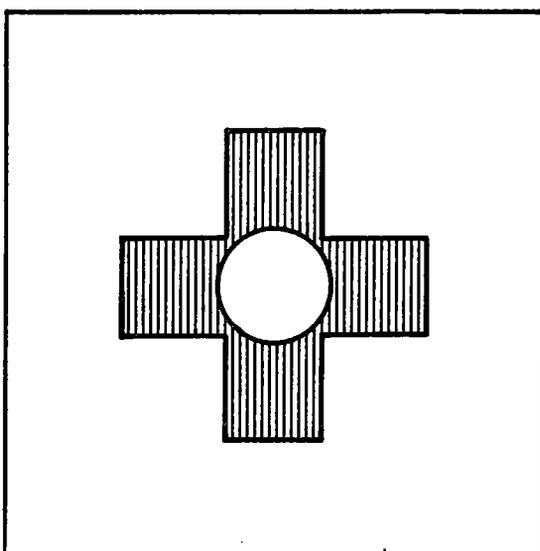
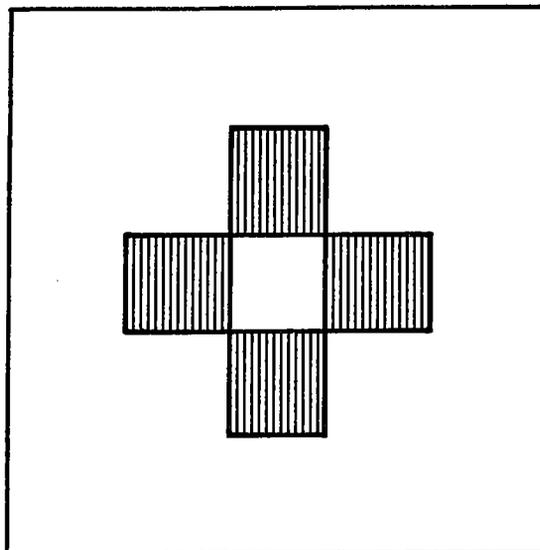
This fact lends all the more importance to the decisions which we have made. It will be for world public opinion and future generations to judge whether we have fulfilled our duty, and in what manner. Each of us has doubtless made his decisions according to his heart and conscience, but one point nevertheless remains which prevents us from returning to our respective countries with clear consciences: by this I mean the question of the emblem under which the International Red Cross carries out a mission of the highest importance: the noble mission of giving brotherly love and help to suffering humanity.

Mr. Jean Pictet, Director and Delegate of the International Committee of the Red Cross, who made an exhaustive and most interesting study of this question for our information "The Emblem of the Red Cross", and all the speakers, namely: the President of the International Committee of the Red Cross, Mr. Paul Ruegger, and the Delegates of Afganistan, the Argentine, Belgium, Burma, Egypt, France, Hungary, India, Israel, Mexico, the Netherlands, Switzerland, Syria and Turkey, were in agreement on the essential point at issue, which is that it is necessary to find a way to create a single emblem valid for all States, without exception. It has nevertheless been decided to retain the second paragraph of Article 31 of the Wounded and Sick Convention, which reappears under Article 38 of the Maritime Warfare Convention, in which exceptions are allowed in favour of preceding emblems. An absurd situation thus arises in which the State of Israel is prevented from employing the Red Shield of David which is already in use in that country as a sign conferring protection, whereas various other countries are authorized to employ emblems other than the Red Cross. We cannot and must not be satisfied with such a solution, especially as its first effect would be to lower the prestige of our Conventions.

Article 4 of the Constitution of Switzerland, this most democratic country, whose hospitality we are enjoying, states that "all citizens are equal before the law". This Article implies that if an exception is tolerated in favour of one citizen, it will likewise be tolerated in favour of all the other citizens. In international relations, nations should also act upon this essentially democratic principle. To quote a certain proverb: "What's sauce for the goose, is sauce for the gander".

The Draft Resolution of the Delegation of Nicaragua is not intended to revive the discussion on the recognition of the Shield of David as an emblem conferring protection, but we should like a solution to be found, for present as well as future application, which would make it possible, on the one hand, to make a reality of the universal ideal of the Red Cross emblem, and to retain the world-wide name of the Red Cross which is so deeply rooted in the heart of all mankind and, on the other hand, to leave each State free to include in this emblem, not its coat-of-arms, which would be specifically forbidden, but a distinctive symbol if it should so desire. We believe that this would encourage the citizens of various States to show greater devotion to duty under an emblem all the more dear to them for being their own.

(Our statement only concerns the Wounded and Sick, and Maritime Warfare Conventions, whereas the Draft Resolution deposited by the Delegations of Burma and India concerns the Civilians Convention; it follows that the two proposals are not contradictory and can very well stand side by side.)



**Draft Resolution.** *Plen. Turkey.* I.VIII.1949 . . . . . **394**

“The Conference,

Noting that the Geneva Conventions require the International Committee of the Red Cross to be ready, at all times and in all circumstances, to fulfil the humanitarian tasks contingent upon the application of those Conventions,

Recognizing the necessity of ensuring regular financial support for the international Committee,

Recommends the Governments, in consequence, to provide an annual grant for the activities of the International Committee of the Red Cross.”

**Letter addressed to the President of the Conference by the Delegations of: Australia, Brazil, Canada, Chile, China, Colombia, Cuba, France, Italy, New Zealand, Pakistan, the United Kingdom, the United States of America, Uruguay and Venezuela.** 14.VII.1949. . . . . **395**

Mr. President:

The undersigned Heads of Delegations to this Conference regret the necessity of bringing the following matter to your attention.

As you are aware the Delegation of the Union of Soviet Socialist Republics submitted to Committee III on July 7, 1949 a Draft Resolution:

- (a) to make unlawful the use in war of atomic weapons and bacteriological and chemical means of warfare,
- (b) to make it the duty of all Governments which have not done so to ratify the “Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous, or Other Gases, and of Bacteriological Methods of Warfare”, signed at Geneva on June 17, 1925, and
- (c) to make it the duty of the Governments of all countries, to secure the immediate conclusion of a Convention prohibiting the use of atomic weapons for mass destruction.

Such a resolution is outside the scope of the competence of this Conference as will be evident from the following facts:

(1) The invitations issued by the Swiss Government and the documents furnished therewith indicate clearly that the purpose of the Conference is to draw up new Conventions for the protection of war victims along the lines of the four Drafts approved by the XVIIth International Red Cross Conference. These Drafts are the working papers of this Conference. The Swiss Government at no time indicated as a purpose of this Conference consideration of what weapons of warfare are legitimate and the four Drafts are concerned with war victims and not with weapons of war.

(2) Jurisdiction in this matter has been assumed by the highest International Body, namely the United Nations. By a unanimous vote of the General Assembly, giving effect to a resolution proposed by the United States of America, Canada, China, France, United Kingdom and the Union of Soviet Socialist Republics, the question was referred to the United Nations Atomic Energy Commission. This Commission has jurisdiction not only of the problem of atomic energy control and the prohibition of atomic weapons but also of all major weapons adaptable to mass destruction including biological and chemical warfare. Among other things, the Commission was instructed to make specific proposals “for the elimination from national armaments of atomic weapons and all other major weapons adaptable to mass destruction” and “for effective safeguards by way of inspection and other means to protect complying States against the hazards of violations and evasions”. Although the work of the Atomic Energy Commission does not fall within the purview of the present Conference, it is nevertheless convenient to recall that this work has been delayed by the impossibility of obtaining the agreement of certain powers to the control and supervision of atomic energy. This purpose has not been abandoned.

In the autumn of 1948 the General Assembly of the United Nations requested the six Powers mentioned above to meet and consult in order to determine whether there exists a basis for agreement on the control of atomic energy and the prohibition of atomic weapons. These Powers will meet in the near future.

We all wish for the success of these consultations. But the progress we have made here through long and arduous toil must not be put in jeopardy by the introduction at this late date of matters outside the scope of our work.

For all of those reasons, Mr. President, we are of the opinion that this Draft Resolution of the Union of Soviet Socialist Republics Delegation is not receivable by this Conference.

Please accept, Mr. President, the assurance of our highest consideration.

(signed):

Leland HARRISON  
American Delegation

Emile VAILLANCOURT  
Head of the Canadian Delegation

R. BÉTOAUD  
Chief of the French Delegation

Robert CRAIGIE  
United Kingdom Delegation

Wu NAN-JU  
Chinese Delegation

W. R. HODGSON  
Australian Delegation

Joao PINTO DA SILVA  
Delegation of Brazil

Rafael ROCHA SCHLOSS  
Delegate of the Colombian Republic

A. FARUKI  
Pakistan

C. B. BURDEKIN  
New Zealand

J. DE LA LUZ LEON  
Chief of the Cuban Delegation

P. L. Falcon BRICENO  
Chief of the Venezuelan Delegation

Giacinto AURITI  
Chief of the Italian Delegation

Colonel Hector BLANCO  
Chief of the Uruguayan Delegation

Ramon RODRIGUEZ  
for the Chief of the Chilean Delegation

**Draft Resolution. Plen. U.S.S.R. 29. VII. 1949 . . . . . 396**

The Conference decides that:

- (a) The employment in any future war of bacteriological and chemical means of warfare and of atomic and other weapons designed for the mass extermination of the population is incompatible with the elementary principles of International Law and the conscience of peoples.
- (b) It is the duty of all Governments who have not hitherto ratified the Protocol of Geneva of 17 June 1925, relating to the prohibition of the employment of asphyxiating, poisonous or other gases and bacteriological means of warfare, to ratify that Protocol as soon as possible.
- (c) It is the duty of the Governments of all countries to obtain the immediate signature of a Convention relative to the prohibition of the atomic weapon as a means of mass extermination of the population.

**Draft Resolution. Plen. Committee I. 3. VIII. 1949 . . . . . 397**

Whereas Article 33 of the Convention for the Relief of the Wounded and Sick in Armed Forces in the Field, concerning the identity documents to be carried by medical personnel, was only partially observed during the course of the recent war, thus creating serious difficulties for many members of this personnel.

The Conference recommends that States and National Red Cross Societies take all necessary steps in time of peace to have medical personnel duly provided with the badges and identity cards prescribed by Article 33 of the new Convention.

**Draft Resolution. *Plen. Committee I.* 3.VIII.1949. . . . . 398**

Whereas misuse has frequently been made of the Red Cross emblem,

The Conference recommends that States take strict measures to ensure that the said emblem is used only within the limits prescribed by the Geneva Conventions, in order to safeguard its authority and protect its high significance.

**Draft Resolution. *Plen. Committee I.* 3.VIII.1949 . . . . . 399**

Whereas agreements may only with difficulty be concluded during hostilities;

Whereas Article 22 of the Convention of . . . . . for the Relief of the Wounded and Sick of Armed Forces in the Field provides that the Parties to the conflict shall, during hostilities, make arrangements for relieving where possible retained personnel, and shall settle the procedure of such relief;

Whereas Article 24 of the same Convention provides that as from the outbreak of hostilities, belligerents may determine by special arrangement the percentage of personnel to be retained, in proportion to the number of prisoners and the distribution of the said personnel in the camps;

The Conference requests the International Committee of the Red Cross to prepare a model agreement on the two questions referred to in the two Articles mentioned above and to submit it to the High Contracting Parties for their approval.

**Draft Resolution. *Plen. Joint Committee.* 19.VII.1949. . . . . 400**

Whereas circumstances may arise in the event of the outbreak of a future international conflict in which there will be no Protecting Power with whose co-operation and under whose scrutiny the Conventions for the Protection of Victims of War can be applied; and

Whereas Article 8 of the Convention of . . . . . for the Relief of the Wounded and Sick in Armed Forces in the Field, Article 9 of the Convention of . . . . . for the Relief of Wounded, Sick and Shipwrecked Members of Armed Forces on Sea, Article 9 of the Convention of . . . . . relative to the Treatment of Prisoners of War, and Article 9 of the Convention of . . . . . for the Protection of Civilian Persons in Time of War provide that the High Contracting Parties may at any time agree to entrust to a body which offers all guarantees of impartiality and efficacy the duties incumbent on the Protecting Powers by virtue of the aforesaid Conventions;

Now, therefore, it is recommended that consideration be given as soon as possible to the advisability of setting up an international body, the functions of which shall be, in the absence of a Protecting Power, to fulfil the duties performed by Protecting Powers in regard to the application of the Conventions for the Protection of Victims of War.

**Extract from the Memorandum by the Government of the United Kingdom (Document No. 6). 401***Discrimination*

The Government of the United Kingdom recognize the reasons why so many countries are anxious to provide against adverse discrimination between prisoners of war and "protected persons" under the Civilians Convention on account of race, nationality, religious belief or political opinions and they sympathize with the desire to exclude the kind of discriminations which were made by some Powers during the Second World War. They recognize also that some of the Powers concerned would object also to some of their nationals being picked out for specially favourable treatment, having regard to the use made of such means to encourage "collaborators". Nevertheless the United Kingdom Government have come to the conclusion that insufficient consideration has hitherto been given to the kinds of

discrimination which are essential if adequate and roughly equivalent treatment is to be accorded in all cases. For example, in the view of the Government of the United Kingdom, Article 14 of the Prisoners of War Convention as drafted would prevent:

- (a) the giving of more blankets to an African native interned in Central Europe than were provided for say a Scandinavian; but equal consideration for African and Scandinavian would require the former to be provided with more blankets;
- (b) the provision of the special food or cooking utensils required by certain religions.

The Government of the United Kingdom do not desire to deal with this problem in detail here; but to invite the other countries concerned to consider whether some discriminations may not be found necessary, on grounds of race, nationality and religious beliefs or political opinions, if some of those concerned are not to be adversely affected by the adoption of uniform treatment in these matters. They will be prepared to advance definite proposals at the Diplomatic Conference.

**Chapters III, IV, V of the Draft Report of Committee III to Plen. Assembly** which were rejected by the Committee . . . . .

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*Idealism and Realism. — III. Origin of divergencies*

The Draft prepared by the International Committee of the Red Cross with the greatest possible care, and amended by the XVIIth International Red Cross Conference in August 1948, aimed as one might expect at humanitarian guarantees on the broadest possible scale, and laid down stipulations regarding the liberty of action of the Contracting Parties within limits which, at Stockholm, appeared in general not to exceed the standards acceptable by the various States. The views expressed by the various Red Cross Societies played a most important part.

It was to be foreseen that, at the Diplomatic Conference, where only States are represented, and which was attended by men who have had experience of the administrative difficulties arising during the war, questions would not always appear in the same light, and aspirations towards the safeguarding of humanity in the stress of war would be mingled with preoccupations concerning collective defence, war necessities and the needs of security.

Discussions, therefore, gravitated for the most part, between two poles:

On the one hand, the necessity of establishing and extending the protection of civilians against any arbitrary use of power on the part of those who hold them at their mercy—the voice of law and order raised against the caprice of unrestricted violence, and the substitution of objective criteria for purely subjective appreciation on the part of the authorities interested; the organization of authoritative bodies, the composition and functioning of which are factors of impartiality; and, finally, the establishment of channels for complaints and of supervisory organs.

On the other hand, there was hesitation on the part of certain States to bind themselves by rigid rules, and there were also practical considerations which caused them to apprehend complications incident to formalism. There was also the fear of seeing protective regulations, though wholly justified, become a cloak which might shelter the most inhuman abuses; the feeling of the dangers to the belligerents state of secret infiltrations and underhand intrigues; and the desire to leave national sovereignty the free use of its means of actions at a time when the country is fighting for its very existence.

These opposite tendencies may be characterized as idealism and realism; nevertheless, the definitions are more or less summary.

*Peculiarities of view-points*

Side by side with this opposition, other contrasts came to light. Each Delegation had a tendency to consider the various questions in the light of its own war experiences; of course it was to be expected that countries having suffered the horrors of invasion and

occupation would not look at matters from the same angle as those whose territory had not been violated by the enemy. Sometimes the opinion based on these local experiences were one-sided. Each country sought first and foremost for the remedy for the evils from which it had itself suffered. It was impossible to see the wood for the trees, because each party could only perceive the repercussions of the war as they appeared from its own standpoint. However, the common fund of actual experiences made it possible to assemble here various points of view and to produce a balanced synthesis.

It was also necessary to take into account the aspect assumed by each problem according to special circumstances in the various countries. Naturally the protection of aliens on the territory of a belligerent appeared in a very different light according as the matter was considered by a State which had accommodated within its borders large numbers of immigrants, or, on the contrary, by a State where the proportion of aliens was very small. Certain questions regarding transit through a blockade appeared from a very different angle as the interests to be considered were those of great seafaring nations or those of an essentially landlocked State. Moreover, certain Delegations made strenuous efforts, often in vain, to arrive at the adaptation of the international texts to those of their own national institutions. In cases where the clarity of the Convention was not affected, it was possible to give satisfaction to the Delegations in question; but it was usually found necessary to abide by more or less general notions, so that they might be incorporated in the law of all countries.

#### *Divergencies regarding the object of the Convention*

Moreover, the Delegations frequently had widely differing views as to the scope and even to the object of our Convention. For example, certain Governments considered that it ought to protect enemy citizens, but not neutrals who can usually appeal to some diplomatic representative; other States on the contrary, wished protection to be extended not only to aliens, including the stateless, but even in certain fields to the nationals of the Contracting Parties. This gave rise to considerable discussion regarding Article 3 and Part II (Article 11 and following Articles).

On the other hand, there were some States who desired to keep exclusively to the protection of persons, while other, considering that a private person losing all his possessions is reduced to penury, also desired that protection should be afforded to personal property.

Finally, some States expressed their preference for very broad formulas which would even go so far as to regulate war itself, and would even intervene in questions dealt with in Section II ("Hostilities" Article 22 and following Articles) of the "Laws and Customs of war on Land" of the Annex to the IVth Hague Convention, dated 18 October 1907. Others, on the contrary, considered that this field did not come within our terms of reference; they desired to limit the protection to "persons falling into the hands of a power of which they are not nationals", together with a few amendments made for the sake of clarity in the rules laid down by the Hague Convention. There were also similar amendments to Article 15 of our own Convention which completed, as regards hospitals, Article 27 of the "Laws and Customs of War on Land". It was pointed out that if it had been a question of revising the Laws and Customs the States would have constituted their Delegations differently, and would have sent with them specialists on these questions. The difference of opinion was most marked in connection with Articles 29 and 30.

#### *IV. Reasons for agreement*

This frank explanation of the principal origins of divergencies has certainly not been given merely in order to stress the points upon which opinions were divided, but rather so that we might offer a clear general picture which would reveal the different trends of opinion that were noticeable throughout the discussion. We have not to touch briefly on the points where we were all of one mind.

First of all, the whole world had been shocked by the savagery which the last World War had let loose upon the earth; and this was felt by all the Delegations. Every one of them was fully convinced that the essential object of our Convention is effectively to prohibit the inhuman behaviour, one might say ferocity, with which the authorities of certain countries treated the civilians whom they had in their power.

Naturally, when the discussion turned upon the way in which the principles arising from these convictions, common to all, were to be made effective, various conflicting methods were suggested. Certain positions were defended with considerable energy; but even then genuine efforts were made on all sides to understand the vital needs of other countries, to take account of the necessities invoked by them and to see that justice should prevail. It is true that a decision could only be arrived at in certain cases by a majority vote; conciliatory solutions were nevertheless adopted for many of the provisions; and on the whole it may be said that the Convention as it now stands reflects the general opinion.

#### V. *Legal Structure*

As regards the technical results, that is to say the value of the texts from the point of view of their form, their precision, their logical coherence and order, we can only express an opinion here with the utmost caution. First of all the necessity of ascertaining that the French and English texts constitute precise equivalents has been the source of numerous difficulties which cannot claim to have wholly overcome. Moreover, although the work of the sub-Committees has been meticulous in the extreme, the number of amendments proposed was so great and the new ideas raised in the debate, even at the close of a discussion, were so abundant that the bearing of the amendments introduced does not always appear very clearly. It sometimes happened that at the close of a long meeting Delegates failed to point out some error in a text that was just about to be adopted, because they feared to re-open a wearisome discussion. Furthermore, we often had to refrain from asking for the amendment of a poorly worded French text, since when once agreement had been reached the slightest alteration in the wording would give rise to objections. According to the course of the debate, often difficult to foresee, the majority sometimes favoured the Stockholm text, sometimes an amended version of it, and sometimes a new solution altogether. A jurist imbued with the spirit of criticism would perhaps condemn this eclectic manner of looking at things, but he would probably take too narrow a view. An International Conference is a crucible where many different metals are melted down. The resulting alloy, may nevertheless, be durable.

The present Convention reflects a complex of multiple preoccupations spread over the surface of the globe. Some of them are common to all, but many others are very diverse. The Convention, then, is based upon living sociological realities and from that point of view it is perhaps better adapted for the universal good than a carefully sculptured juridical monument which might procure intellectual satisfaction for the legislator, but would, for a certain proportion of humanity, be very difficult to digest.

Certainly, juridical reasoning has played a very important part in our work. It is this consideration which has resulted in a number of transfers or even dislocation of Articles, in order that they might occupy a more suitable position in the Convention. But juridical reasoning was never allowed to become the dominant preoccupation, and fundamental questions were always kept in the foreground.

Besides, the work undertaken by Committee III is wholly new. The basic plans, of course, were provided by the International Committee of the Red Cross and by the Stockholm Conference. But many unexpected difficulties arose from the very situation which had to be dealt with. The matter continually took on various new aspects which had not hitherto been observed. It should not be overlooked that what had to be undertaken was the task of bringing order on international lines, into a place where law was practically non-existent. The artisans of this edifice have perhaps not created an architectural chef-d'œuvre, but their constructions stands. They did not carry the building higher, because their bold enterprise was frequently paralysed by the need to obtain general approval and consent. However modest certain of the solutions may appear, whatever imperfections may be found to exist in the plan which we now submit to the Conference, it has one merit: it does exist, approved in the aggregate by . . . . Delegations. May it be sanctioned very soon in the form of written law.

**Signature of the Conventions.** *Proposition of the Bureau.* 29.VII.1949 . . . . .

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The Bureau of the Conference, at a Meeting on 28 July, considered the question of the signature of the Conventions.

In order to meet the various wishes which have been expressed, the Bureau decided by a majority to submit the following proposals to the Conference:

- (1) During the closing Meeting, a Final Act will be open for signature. This Act will be the formal record of the results achieved; it will provide the authentication of the texts drawn up by the Conference, together with any Resolutions which it may adopt.  
Delegations who wish to sign the Convention now, will have the opportunity of doing so at this Meeting.
- (2) The official ceremony of signature will take place at Geneva towards the middle of December. Delegations which do not sign the Convention at the conclusion of the Conference will have the opportunity of doing so then.
- (3) A register for signatures will remain open for not more than six months from the date of the closure of the Conference.

## INDEX OF SPEAKERS

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The Roman numerals indicate the different volumes of the Final Record of the Diplomatic Conference of Geneva of 1949:

I signifies Volume I

IIA signifies Volume II, Section A

IIB signifies Volume II, Section B

III signifies Volume III

The Arabic figures indicate the number of the pages of the respective volume.

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## EXPLANATION NOTE

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**1907** indicates the Hague Conference of October 18th, 1907, for the adaption to maritime warfare of the principles of the Geneva Convention of July 6th, 1906.

**1929** indicates the Geneva Convention of July 27th, 1929, for the relief of the wounded and sick in armies in the field;  
or the Geneva Convention of July 27th, 1929, relative to the treatment of prisoners of war.

**St** indicates the text of the Draft as approved by the XVIIth international Red Cross Conference at Stockholm in August, 1948

**Draft for Stockholm**  
(figures in the index of the Articles  
of the Civilians Convention only) } indicates the text of the Draft as elaborated by the I.C.R.C.  
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**Work** indicates the working sequence of the Articles as studied during the Geneva Conference of 1949

**Final** indicated the final numbering of the Articles as approved by the Geneva Conference of 1949

The Roman numeral in the right hand column indicate the different volumes of the Final Record of the Diplomatic Conference of Geneva of 1949:

- I signifies Volume I
- IIA signifies Volume II, Section A
- IIB signifies Volume II, Section B
- III signifies Volume III

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The Roman numerals indicate the different volumes of the Final Record of the Diplomatic Conference of Geneva of 1949:

- I signifies Volume I
- IIA signifies Volume II, Section A
- IIB signifies Volume II, Section B
- III signifies Volume III

The Arabic figures indicate the number of the pages of the respective volume.

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## ERRATA

### VOLUME I

- Page 115. Article 12B, first paragraph, second line. Insert the words "a neutral State or" after the word through.
- Page 158. 21st line. Should read "Argentina". — 35th line. Should read "Wing Commander Reginald Henry Davis, O.B.E., R.A.A.F."
- Page 165. 15th line. Should read "Mr. Juan de Rueda".
- Pages 168, 177, 222, 241. Should read "Divisional Colonel Claude Du Pasquier".
- Page 176. 16th line. Should read "H. E. Dr. Pedro de Alba". — 27th line. Should read "H.E. Mr. J.J. Bosch, Chevalier van Rosenthal".
- Page 373. Article 46. Should read "Detailed execution".

### VOLUME II A

- Page 33. After 7th paragraph, left. Insert heading "**Preamble of the Convention**". — After 10th paragraph, left. Insert heading "**Extension of the Terms of Reference of the Joint Committee**" and start the next paragraph with "The President :"
- Page 39. 8th line, right. Should read "Mr. Zanettos".
- Page 40. 10th line, left. Should read "Mr. Pinto da Silva". — 32nd line, left. Should read "Colonel Falcon Briceno".
- Page 57. After 2nd paragraph, left. Insert heading "**New Article (IIA)**".
- Page 175. 38th Meeting, 2nd heading. Insert after 15 the letter "A".
- Page 221. Insert at end of Article 2A.  
    "(2) The wounded and sick shall be cared for.  
    An impartial humanitarian body, such as the International Committee of the Red Cross, may offer its services to the Parties to the conflict.  
    The Parties to the conflict should further endeavour to bring into force, by means of special agreements, all or part of the other provisions of the present Convention.  
    The application of the preceding provisions shall not affect the legal status of the Parties to the conflict."
- Page 437. After first paragraph, left. Insert heading "**Article 11, second paragraph**".
- Page 466. 9th line, right. Should read "Article 3A. Netherlands Draft amendment".
- Page 675. 3rd line, right. Insert before Observations "Article 135 and".
- Page 713. Insert after 5th paragraph, right "Mr. Morosov (Union of Soviet Socialist Republics) declared to reserve himself the right to formulate objections if need there will be. He considered that the Austrian proposition was as a matter of fact not a pure wording amendment but that it also altered the substance of the Article."

### VOLUME II B

- Page 76. Heading left. Should read "Article 40A/44A/119B/130B".
- Page 91. 5th line, left. Should read "Articles 38/42/117/128 to 43/46/120/131". — 10th line, right. Should read "Article 40A/44A/119B/130B".
- Page 113. 25th line, left. Should read "Articles 47/50/121, 122/135".
- Page 432. 5th line, left. Should read "Article 41A/45A/119D/130D (continued)".
- Page 515. Heading, right. Insert after the heading "(see Annex No. 394)".

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