

FCO
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Emblem Protection

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I. Introduction

I want to talk today about something that is at the core of the Geneva Conventions, the emblem, or rather emblems, and their protection. How did the emblems originate, what do we do to control their use, what is their meaning and how do we enforce that control?

II. Origins

1. Battle of Solferino

Medical services of armed forces have always had insignia to mark them out. However it was only following the battle of Solferino that the International Committee of the Red Cross, as it now is, then operating under a different name, first met in Geneva at an international conference to try to find a way of remedying the apparent ineffectiveness of medical services in the field, as displayed at Solferino. That conference adopted a red cross on a white background as the distinctive emblem for relief societies for wounded soldiers, the future National Societies of the Red Cross and Red Crescent Movement. That is where the emblem started. It was in 1864, a year later, with the first Geneva Convention, that the same emblem was adopted as the distinctive sign of the medical services of the armed forces.

2. The Red Cross and the Red Crescent

Of course, as we know, the unity of the emblem did not exist for very long. By 1876, in the Russo-Turkish Wars, ironically fought in the Balkans, the Ottoman Empire chose to use a red crescent. Later Persia, as it then was, adopted an emblem of a red lion and sun. It was not until 1929 that these two emblems were formally adopted alongside the red cross in the Geneva Conventions of that year, in particular the Geneva Convention on the Sick and Wounded. In 1949, in the Conventions whose 60th anniversary we celebrate today, the three emblems were confirmed as the only three protective emblems.

3. The Red Crystal

However, as we have seen in recent years, both the cross and the crescent have unfortunately been taken to have a religious significance in a manner that they were never intended to have. And so, in 2005, an additional emblem of a red crystal was adopted for use where this might enhance protection. This was in the third Additional Protocol to the 1949 Geneva Conventions, and on 2 July this year the Geneva Conventions and United Nations Personnel (Protocols) Act 2009 received the Royal Assent. This is the implementing legislation that will enable the United Kingdom to ratify the third Additional Protocol and accept, recognise and protect the additional emblem of the red crystal. I should add for historical completeness that the red lion and sun is no longer used by Iran, as it now is, although Iran retains the right to return to the use of the red lion and sun should it wish to do so. Iran itself has adopted the use of the red crescent.

III. Meanings of the Emblems

1. Protective

First and most critical in armed conflict is the protective meaning of the emblem. The emblem is there to signify that the person or item is protected under the law of armed conflict, under international humanitarian law. It is in that sense that it is used by the Defence Medical Services; indeed, that is its primary purpose. For it to be protective, it needs to be large, and that is why you see large emblems on medical ambulances of the armed forces, on hospitals run by the armed forces, etc.

2. Indicative

The secondary usage of the emblem is indicative. Here, it is being used to indicate that the bearer or the object has a connection with the International Red Cross and Red Crescent Movement. This is not a protective use, and the indicative use can apply, of course, in peace time as well. In order to distinguish it from the protective use, normally the emblem in its indicative use is smaller. It does not need to be as large because it does not have the protective purpose.

IV. Control

1. National and International

Contrary to popular belief, although the emblem started with the Movement, control of the emblem is in fact a matter for States. The emblem is controlled by both international and national law. However the Movement obviously has an interest in protecting the emblem, not least because under treaty law the international Red Cross organisations, such as the International Committee of the Red Cross, may make use of the red cross at all times. The International Conference of the Red Cross and Red Crescent, which consists of the components of the Movement and of the States party to the Geneva Conventions, and later the Council of Delegates with the approval of States, has laid down Regulations as to how the emblems are to be used within the Movement. These are the Emblem Regulations of 1991.

2. Legislation in the UK

In the UK, we are governed by the Geneva Conventions Act of 1957, as amended, and, as I have said, in 2009 a new Act has again amended the Geneva Conventions Act in relation to emblem protection to include the red crystal. This legislation governs both the use of the emblems themselves, and also of similar designs to the emblem. Control rests with the Secretary of State. In practice, the relevant Government Departments are, for the emblems themselves, the Ministry of Defence, and for imitations it is the Intellectual Property Office (IPO). Even the British Red Cross is subject to this national legislation. We have an authorisation issued by the Secretary of State which requires us to comply strictly with the Emblem Regulations, by which of course we are bound anyway as a member of the Movement. When in doubt, we have to refer back to the Ministry of Defence (MoD), over our own use of the emblem. After all, Caesar's wife must surely be above suspicion!

V. Authority

1. Permission

Part of our agreement with the MoD is that we also act as an agent for them in helping with permission cases and misuse cases, and this is part of the function of the office in which I work. What do I mean by that? First of all, let us look at permission. It is not uncommon to see on television and in films the red cross or the red crescent emblem appearing, in particular in Second World War movies, and sometimes more recent ones as well. All of these have to be approved, and what happens is the producers approach our office, we negotiate with them and then pass the matter to the MoD for formal approval.

In particular, there is a requirement for a credit to be inserted. Now unfortunately, sometimes this is seen as the British Red Cross trying to get a credit for the use of our "logo". That is not actually true. The purpose of this credit is to indicate an acknowledgment that approval has been obtained, so that if the TV programme or the film is shown around the world in other jurisdictions, it will be apparent that the use of the emblem has been approved within the jurisdiction where the film was made, namely the UK. It is very important for that reason.

2. Misuse

There is plenty of misuse, usually by misunderstanding. For example, the red cross is not the symbol for first aid, again contrary to popular belief. In Europe, that is a white cross on a green background. The Turner Prize at the Tate Gallery this year had a sculpture of a naked mannequin with a nurse's hat on with the Red Cross. We at the British Red Cross did not feel it was appropriate to intervene ourselves, although we did inform the MoD. We do get a lot of strange cases, for example computer services – people who go around repairing computers - often call themselves "computer doctors" and put a red cross on their logo. Conservatory maintenance is another one and even plumbers. Usually when we write to them – and we write a letter first – they instantly say 'terribly sorry, we did not know,' and they change their logo or whatever is causing the problem.

3. Intellectual Property

Similarly, we have problems with pre-existing rights. As early as the 1911 Geneva Convention Act, companies were given a limited period in which to change their logos, and from about 1914 it

was illegal to use the red cross as a logo for a company. However, we occasionally get companies who have gone out of business long ago, their intellectual property rights have been sold on to another company and they are trying to reconstitute the old company under the old logo. Again, this raises issues that the IPO deal with.

4. Enforcement

Of course, it is not actually for us, the British Red Cross, to enforce the legislation because we do not own the emblem. As I say, most cases are resolved by correspondence. Very few prove stubborn, but occasionally we get one or two that do. The MoD or the IPO will take up a case if we cannot resolve it, and try and resolve it themselves. Usually when you get a full colonel visiting a person somewhere it produces the desired effect, but occasionally not. However, there have been very few prosecutions, only about five in total. In a recent case, a regional Crown Prosecutor decided not to prosecute a blatant emblem misuser on the grounds that the case did not pass the public interest test because the sentence was likely to be minimal. Frankly, if this is generally adopted it will drive a coach and horses through our protection regime, and we are working at the moment with the MoD to try to resolve this particular issue.

VI. Conclusions

Emblem protection is a crucial part of our auxiliary role in helping the government uphold the integrity of the emblem. It helps to support the work being done by the Defence Medical Services, to whom the protection role of the emblem is vital. We are very lucky to have in the British Red Cross probably the leading expert on the emblem in the Movement, Michael Meyer, my own boss, and I am delighted to acknowledge that. We receive almost daily reports in our office of misuse from members of the public, volunteers, and others, and I would urge any of you, if you see an illegal use or possible misuse of the emblem, contact us, and we will take it up. Offenders range from MPs to small businesses, but we try to be very polite to everybody.

Emblem protection is vital for the safety of our Defence Medical Services. Just because we are not threatened at the moment in this country, it does not mean we can relax our guard. The UK is considered to be a model for our strict emblem protection regime; indeed it has even been described as “the gold standard”. Sometimes it is considered too strict, even by some of those who have to work with it. However, the emblem has survived for not just 60 but almost 150 years, and if it is to continue to carry the protective meaning that it has over that 150 years, then we must keep our guard up as well.