

United Kingdom, Misuse of the Emblem

[Source: *Shropshire Star*, February 8, 1996, p. 4]

N.B. As per the disclaimer ^[1], neither the ICRC nor the authors can be identified with the opinions expressed in the Cases and Documents. Some cases even come to solutions that clearly violate IHL. They are nevertheless worthy of discussion, if only to raise a challenge to display more humanity in armed conflicts. **Similarly, in some of the texts used in the case studies, the facts may not always be proven;** nevertheless, they have been selected because they highlight interesting IHL issues and are thus published for didactic purposes.

Mercy Trucker Getting Cross ...

Shropshire mercy trucker Mike Taylor has been told he faces legal action unless he removes the British Red Cross emblem from his lorry.

Charity bosses say the Newport aid worker is committing a crime by using the red cross emblem without authorisation.

But Mr Taylor, who delivers food and emergency supplies to the war torn Bosnia, has pledged to keep the symbol on his trucks.

“I’m very annoyed about the whole thing but I refuse to take the emblems off. It’s all very petty.”

He said the International Red Cross had given him permission to use the symbol. In the past three years he has taken 24 loads over to the former Yugoslavia.

“The symbol is internationally recognised and I use it for protection when I cross the front line,” he said.

“The International Red Cross in Geneva let me use the emblem but this problem is with the British branch,” he said.

In a letter received by Mr Taylor, the head of international law at the British Red Cross states: “Unless I hear from you by February 13, that you are making arrangements to have the red cross signs removed as a matter of urgency, I shall have no alternative but to take further action.”

Mr Taylor added: “I can’t believe the Red Cross is making such a fuss about this.”

A spokesperson for the British Red Cross, Colin McCallum, said Mr Taylor was breaking UK law.

He added only people working for the Red Cross could use the symbol, otherwise it would be impossible to control who was using it.

Discussion

1. Who may use the red cross emblem? For which purposes? (HR, Art. 23(f) ^[2]; GC I, Arts 38 ^[3] and 53 ^[4]; GC II, Arts 41 ^[5]-43 ^[6]; P I, Arts 8(1) ^[7], 18 ^[8], and Annex I, Arts 4 ^[9]-5 ^[10]; P II, Art. 12 ^[11])

2. a. For what purpose did the trucker wish to use the emblem? Is the emblem ever to be used for protection in such circumstances? When is it to be used as a protective device? When as an indicative device? Is it true that only people working for the Red Cross can use the emblem? In general? Specifically to transport food aid in conflict areas? (GC I, Art. 44 ^[12]; P I, Art. 18 ^[8])

b. Does the trucker's use of the emblem in such a way constitute misuse? If so, is this misuse of the emblem a war crime? Would any misuse of the emblem constitute a war crime? If so, when? (HR, Art. 34 ^[13]; GC I, Art. 53 ^[4]; P I, Arts 37(1)(d) ^[14], 38 ^[15] and 85(3)(f) ^[16])

3. a. Was the trucker here authorized to use the emblem? Even assuming that the ICRC gave him permission? Who authorizes the protective use of the emblem? The International Red Cross and Red Crescent organizations? The National Societies? The States Parties? Who is responsible for punishing misuse and abuse of the emblem? (GC I, Art. 54 ^[17]; GC II, Art. 45 ^[18]; P I, Art. 18 ^[8])

b. Which obligations do States Parties to the Conventions and Additional Protocols have with regard to the emblem? Must each State Party adopt implementing legislation, such as the United Kingdom's Geneva Conventions Act of 1957? Which issues should this legislation cover? (GC I, Art. 54 ^[17]; GC II, Art. 45 ^[18]; P I, Art. 18 ^[8])

4. a. Is not, as the trucker said, the British Red Cross making a fuss about this? Should the Red Cross still urge that he be punished under the UK's Geneva Conventions Act of

1957, even when his safety depends on using the emblem? After all, isn't his mission for a humanitarian purpose? Is this a sufficient justification?

b. In what sense is the British Red Cross concerned about the trucker's use of the emblem? Only because he did not receive prior authorization? Because he is competing with the Red Cross in the "humanitarian business" and using the Red Cross "trademark"? What dangers to the emblem's authority result from such misuse of the emblem? What impact does it have on the emblem's essential neutrality? On its impartiality? Does such misuse undermine the protection it provides?

c. May or must a National Red Cross Society seek to combat misuse of the emblem? Because it is a violation of IHL or because the same emblem is also used by the National Society? May or must a National Red Cross Society seek more generally to combat specific violations of IHL? Including seeing to it that violators are brought to justice?

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