

A. Labour Attacked over ‘Misuse’ of Red Cross Symbol

[Source: Reynolds, N., *The Daily Telegraph*, February 19, 1988]

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.

THE LABOUR party has been accused of hijacking the red cross emblem, used by medical and relief workers around the world, for its campaign to persuade the Government to make more money available for the Health Service in the Budget.

Two days ago Labour started to distribute one million pamphlets and lapel stickers bearing

a red cross superimposed on a pound sign.

The move has angered the British Red Cross Society, the Ministry of Defence, and a Tory MP.

The Red Cross Society has demanded that the campaign be halted immediately for fear of tarnishing the cross's "traditional symbol of neutrality".

The Defence Ministry, the legal protector of the symbol in this country under powers given by the Geneva Conventions Act 1957, last night wrote to Labour, claiming it had broken the law by using a protected emblem without permission.

But the party is unimpressed and has accused the Red Cross Society of "quibbling".

After taking legal advice [...] Labour said last night that it would continue with its campaign.

[...]

His deputy, Mr Roy Hattersley, said yesterday: "We have had a legal opinion which is utterly conclusive. There's been no breach of the law".

A Labour spokesman said that the official red cross was against a white background and had arms of equal length, whereas Labour's cross had unequal arms.

The pamphlet had a buff background and the stickers were yellow.

A spokeswoman for the Red Cross Society said yesterday: "It's awful sad that it's being

used for a political party.”

If used “for all sorts of things then its basic role as a humanitarian symbol gets diluted and people become very confused”, she said.

She believed Labour had used the symbol unwittingly. “We’re awfully sorry about this, but they are breaking the law”. [...]

A Labour spokesman said of the Red Cross objection: “We are surprised that an organisation that shares our concern for the well-being and effectiveness of the Health Service, would quibble about the use of this symbol.

B. Labour Official Falls Foul of Red Cross

[Source: Rose, D., *The Guardian*, November 11, 1988]

Mr Larry Whitty, Labour’s general secretary, was yesterday convicted of breaching the Geneva Convention for using the Red Cross emblem on party leaflets without permission.

Sir Bryan Robertson granted Mr Whitty a 12-month conditional discharge plus 200 prosecution costs, at Horseferry Road magistrate’s court, London.

Mr Philip Kelly, the editor of Tribune, was also given a conditional discharge for 12 months for using the symbol on his front page.

After the hearing, Mr Whitty said the case, brought by the Department of Trade and Industry, was politically motivated. The complaint against Tribune was made by Mr Gerald Hartup, campaigns director of the Freedom Association, the right-wing pressure group.

The court heard that the British Red Cross director, Mr John Burke-Gaffney, asked Mr Whitty last February to withdraw the leaflets, which campaigned against health cuts.

He said it appeared to breach section six of the 1957 Geneva Convention Act, which prohibits the use of the symbol without authority from the Department of Trade and Industry.

Mr Whitty wrote back saying the Labour red cross was not the same as the International Red Cross and so distribution of the leaflets could go ahead.

Outside the court, Mr Whitty accused the Government of bringing a “squalid” prosecution for political reasons.

“This was not a case brought by the Red Cross. It was instigated by government departments. [...]

A DTI spokeswoman denied this, saying there had been no political direction and Mr Whitty had been treated in the same way as anyone who broke the Geneva Convention.

Mr Kelly accused the Red Cross of being in league with the Government. He said the case should cause people to think about its charitable status.

Mr Burke-Gaffney said after the hearing: “I am sad about the whole thing but I’m glad the court has felt that the emblem should be protected.

“I hope people realise that it is important and needs supporting.”

Discussion

1. Who may use the red cross emblem in peacetime? In which circumstances and under what conditions? (HR, Art. 23(f) ^[2]; GC I, Arts 38 ^[3], 44 ^[4] and 53 ^[5]; GC II, Arts 41 ^[6]-43 ^[7]; P I, Arts 8(1) ^[8], 18 ^[9], and Annex I, Arts 4 ^[10]-5 ^[11]; P II, Art. 12 ^[12])

2. a. Did the Labour Party use the emblem properly? Did it even use the emblem – the image on their pamphlet was a cross with arms of unequal length and the background buff or yellow, in contrast to the protected emblem, which is a red cross with arms of equal length on a white ground? Is this nevertheless misuse of the emblem? Although it draws public attention to problems of the National Health Service, which is entitled to use the emblem (rather than e.g. a campaign of pharmaceutical manufacturers, who may not use the emblem)? (GC I, Art. 53 ^[5]; P I, Art. 38 ^[13]; P II, Art. 12 ^[12])

b. Is such misuse of the emblem a war crime? If not, would any misuse of the emblem constitute a war crime? If so, when? Even in peacetime? (HR, Art. 34 ^[14]; GC I, Art. 53 ^[5]; P I, Arts 37(1)(d) ^[15], 38 ^[13] and 85(3)(f) ^[16])

3. a. Would the criminal convictions have occurred if the Labour Party had received prior authorization to use the emblem? Should such use ever be authorized? Would authorization for such use be consistent with the Geneva Conventions and Protocols?

b. Who authorizes use of the emblem? International Red Cross and Red Crescent organizations? The National Societies? The States Parties? Who has the responsibility to punish misuse and abuse of the emblem? (GC I, Art. 54 ^[17]; GC II, Art. 45 ^[18]; P I, Art. 18 ^[9]) Is it not logical, therefore, that the case was brought by government departments, and not by the Red Cross?

c. Which obligations have States party to the Geneva Conventions and Protocols regarding 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 encompass? (GC I, Art. 54 ^[17]; GC II, Art. 45 ^[18]; P I, Art. 18 ^[9])

4. a. Is not, as the Labour spokesman said, the British Red Cross merely quibbling? Why is the Red Cross Society worried about the Labour Party's use of the emblem? Is it only concerned because the Labour Party did not receive prior authorization? In what way does such misuse of the emblem endanger the emblem's authority? What impact does this have on the emblem's essential neutrality? On its impartiality? Does such use undermine the protection the emblem provides?

b. Is the political neutrality of the British Red Cross more seriously undermined by the Labour Party's use of the emblem or by a controversy between the Red Cross Society and the Labour Party which ends up with the criminal conviction of a Labour leader?

c. May or must a National Red Cross Society strive to prevent abuses of the emblem? Because such abuse constitutes a violation of IHL, or because the same emblem is also used by the National Society? May or must a National Red Cross Society more generally strive to prevent specific violations of IHL? Including seeing to it that violators are taken to court?

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