

Neutrality as a Contested Concept in International Humanitarian Law: Red Cross men in the South African War, 1899 -1902

Abstract

In the midst of the South African War (1899 – 1902), a lone soldier named Rudolf Krieger was detained by British troops. Though he claimed to be a medical worker, a ‘Red Cross’ man under the protection of the 1864 Geneva Convention, he was deported as a prisoner of war by the British Military Police. British soldiers had evidence that Krieger had previously fought in the war, and so violated the ‘neutrality’ of medical volunteers in conflict. Krieger’s story was not unique in South Africa, but it was not as straightforward as it seemed. In his earnest pleas for release, he described himself as both a doctor and a fighter, moving between the two roles through the simple act of taking off his Red Cross band and taking up his gun.

Using the archives of the Military Police at Pretoria this article explores contestations like Krieger’s, over what constituted medical personnel, hospitals, and ambulances during the conflict in South Africa. Through their own words and testimonies, it shows that Boer fighters held differing conceptions of what constituted medical ‘neutrality’ and the meaning of the 1864 Geneva Convention to their British counterparts. Exploring these contestations, it seeks to understand how these diverse legal understandings played out in South Africa. Pre-existing medical cultures, the form of conflict itself, and British portrayals of the Boers as ‘uncivilised’ all shaped the meanings of neutrality for participants. Meanwhile, British soldiers acted as arbiters, enforcing a certain reading of the Geneva Convention’s terms. These contests shaped the provision of medical relief on the ground in South Africa and generated international legal changes which echoed through later warfare.

Introduction

In 1965 the 20th International Conference of the International Committee of the Red Cross (ICRC) proclaimed its fundamental principles – humanity, impartiality, neutrality, independence, unselfishness, voluntary action, unity, and universality. When ICRC President, Jean Pictet, elaborated on these principles a decade later he placed ‘neutrality’ below the ‘founding principles’ of humanity and impartiality.¹ The latter referred to the quantification of need and direction of aid itself. Neutrality, on the other hand, differed between the various layers of the Red Cross organisation. The first of these layers was the neutrality of the ICRC itself – as a non-participant in conflict. This neutrality had been assured since its inception in

1863 and was intertwined with the political neutrality of Switzerland, its host state.² Below the ICRC were national Red Cross societies, whose neutrality was more in doubt. The operation of these societies was intertwined with state governments, and sometimes militaries, and their funding structure, relief coordination, and recruitment were delineated by their nationality. These societies could be impartial but for them neutrality was at best an aspirational ideal, rather than a stringent code of behaviour.³

Finally, there was the neutrality of medical personnel, volunteers, and participants, who operated on the ground in conflict as part of but still distinct from their national societies. What did neutrality mean for them? The answer for Pictet was simple and seemingly self-explanatory. Neutrality meant non-participation in conflict. “One cannot”, he wrote, “at the same time, serve the Red Cross and fight, one must choose”.⁴ The spheres of medical aid and military participation were distinct and unrelated. Medical volunteers were afforded protection under international law, through the Geneva Convention, but it was conditional on their acting neutrally, by refraining from participating in conflict.⁵ Pictet’s principles have shaped subsequent understandings of the entire Red Cross movement, particularly on the significance of the perceived neutrality of Red Cross action.⁶ Yet his view of personal neutrality as a choice, between medical and military, detached from national structures and political allegiances is not always reflected in the longer history of the Red Cross movement. On the ground in conflict medical personnel did not always choose between serving the Red Cross and fighting, nor did they believe they infringed the neutrality provision of the Geneva Convention in doing so.

Insight to how these two ideas could co-exist is provided by looking back to the turn of century, to the conflict between the Boers and British in Southern Africa, 1899 – 1902. The war in Southern Africa has largely been overlooked in international legal history.⁷ A quasi-imperial conflict where the application of the recently signed 1899 Hague Convention was openly disputed, the war faded into a nebulous zone seemingly beyond the remit of international law. But both sides of the conflict had ratified the 1864 Geneva Convention and established Red Cross societies. On the ground, legal contestations centred less on whether or not the Geneva Convention theoretically applied to the conflict, and more on *how* to apply it. Foreign Red Cross volunteers and Boer medical personnel were routinely detained and deported by the British troops on the grounds that they had violated their neutrality by participating in the conflict. At the centre of these contestations was a conflicting understanding of neutrality; the protections it offered, and the obligations it created, for medical volunteers.

Debates over ‘neutrality’ proliferated in the late-nineteenth century, particularly in light of its centrality to the first Geneva Convention in 1864. Lawyers and theorists discussed neutrality, or inviolability, as a ‘privilege’ protecting medical workers, which could be lost through violations of the law or annulled situationally.⁸ These ideas about losing and gaining neutrality spread unevenly to Southern Africa, where they were enmeshed with ideas of international legal culpability and criminality, personal allegiances, and the professionalisation of medical care. By moving the focus from abstract principles to contests and claims for legal protection on the ground this article explores international humanitarian law in operation and its direct impact on medical volunteers. It shows that what may seem like a simple choice, to serve the Red Cross or to fight, was not always considered so in practice.

Participatory Humanitarianism and the Red Cross

Volunteer participation to assist the wounded was at the heart of the Red Cross movement as conceived by its founder Henri Dunant following his experiences during the 1859 battle of Solferino. Dunant's idealistic view of the Red Cross advocated for a participatory humanitarianism, whereby anyone could join the battlefield to provide medical relief.⁹ His description of the horrors he witnessed at Solferino was published as *Un Souvenir de Solférino* in 1862. In this text Dunant located reforms in medical relief for the wounded in civilian volunteers, rather than states or armies. He sent a copy of his manuscript to Gustave Moynier, a jurist based in Geneva. Through Moynier's influence and practical experience, the two men arranged an international conference in 1863, to establish national societies to care for the wounded. Neutrality did not feature in these plans until Dunant encountered a Dutch military physician, J. Basting in Berlin the same year. Basting believed that unless medical personnel were protected from military action while aiding the wounded Dunant's scheme would fail.

Under Basting's influence Dunant amended the proposals of his Geneva Committee. He now sought international recognition of the neutrality of medical personnel and their assistants, which included members of recognized voluntary aid detachments. Medical historian of the Red Cross, John Hutchinson depicts this proposal as decisive in solidifying the success of the organisation and distinguishing it from other plans for battlefield relief.¹⁰ The neutrality clause allowed states both to improve their own medical services and to heed enthusiastic demands for participation in conflict. Combined with the impartiality of these volunteers and the permanence of Red Cross societies, neutrality became one of the foundations of the Red Cross movement.¹¹

The following year a diplomatic conference at Geneva adopted a series of resolutions for these relief societies, the 1864 Geneva Convention, which was initially signed and ratified as law by twelve European states.¹² The Convention provided little guidance on how the wounded were to be cared for, concentrating instead on how medical neutrality could be obtained. This was clear from the opening article, which argued that “ambulances and military hospitals shall be recognized as neutral, and as such, protected and respected by the belligerents as long as they accommodate wounded and sick”.¹³ The following articles built on this statement of neutrality – extending it to hospital and ambulance personnel, chaplains, transport services, evacuation parties, and even to ordinary civilians who helped the wounded.¹⁴ Just the presence of a wounded combatant would ensure the protection of an entire household, as neutrality travelled with ‘humane conduct’. Neutrality derived from action and could move, even beyond the parameters of the battlefield. Those ‘enjoying neutrality’ could signify their status with the emblem of a red cross on a white background, worn as an armlet or brassard. However, the convention continued, armlets could only be issued by military authorities, who were wholly responsible for the implementation of the Convention. In its final articles the Convention shifted the emphasis, from participatory volunteerism open to all, to enforcement of the regulations by military commanders in the field.

Despite this effort to place Red Cross activities within the control of the military, the idea of participatory humanitarianism resonated throughout Europe. On the outbreak of the Franco-Prussian War, numerous groups and nationalities mobilized to provide medical relief to the wounded.¹⁵ Some, like the Irish ambulance, used the Red Cross as a convenient cover for participating in the fighting without complicating their own political neutrality. Similarly,

there were prolific accusations that the Red Cross was routinely deployed to shield ammunition, or that it was fired on deliberately by the belligerents.¹⁶ During the conflicts in the Balkans from 1875 – 1878, British aid workers, including those of the British National Aid Society, were often openly partisan in their allocation of aid and attention, largely influenced by reports of ‘Bulgarian Atrocities’ and suffering Christians.¹⁷ The shift that occurred after these conflicts in the 1870s placed the ICRC and Red Cross organisations in a more subservient relationship with states.¹⁸ The ICRC was still responsible for maintaining the image of a neutral arbiter and promoting the value of humanitarian relief during conflict. However, the mobilization of individuals was conducted by states, and connected to the idea of patriotic duty.¹⁹

When conflict broke out in South Africa in October 1899, the wave of participatory humanitarianism which ensued was intimately connected with political stances on the war. The conflict was invariably portrayed as either a gentlemanly ‘white man’s war’ against the backdrop of ‘barbarous’ Africa, or a Manichean struggle between a small people and the might of the Empire. For many of those who travelled to South Africa, either as medical volunteers or to fight, the conflict evoked an empty plain on which a struggle for the future of civilisation could be waged.²⁰ Though the ICRC professed a humanitarian, universalist aim, it upheld the primacy of European civilisation and supported imperial expansion; a proxy, for some, for fighting.²¹ The conflict was waged along a porous boundary between ‘international’ and ‘imperial’ warfare, serving as a reminder that many of the state signatories to the Geneva Convention were simultaneously empires. By restricting its application to signatories, the Convention seemed to address only wars between sovereign states. This elided questions of enforcement in irregular wars or quasi-imperial conflicts, where imperial forces annexed

territory, denied the legitimacy of their opponents, or claimed civilisational superiority over their opponents.

International Law and the South African War

Founded in the mid-nineteenth century by Dutch ‘voortrekkers’ the two South African, ‘Boer’ republics were nominally independent until British territorial expansion brought them into the remit of the British Empire in 1877.²² Conflict and conventions in the early 1880s reconfigured their relationships with Britain, as quasi-sovereign, ‘vassal states’ to the British ‘suzerain’.²³ Though possessing full internal sovereignty, the treaty-making powers of the South African Republic were circumscribed by an 1881 Pretoria Convention. Contested and reframed by the 1884 London Convention, the status of the South African Republic and neighbouring Orange Free State remained a disputed anomaly.²⁴ The discovery of vast mineral deposits on the Witwatersrand the following year transformed the future of the republics; resulting in an explosion of speculative capitalists, foreign workers, and territorial encroachments.²⁵

In 1895 a number of those foreign workers orchestrated an insurrection against the government of the South African Republic, known as the ‘Jameson Raid’, after its coordinator, physician Leander Starr Jameson. Though short-lived, it catalysed rising tensions among the settler population in South Africa, stoked by the British government, which threatened to erupt in conflict. Afterwards, the St. John Ambulance Brigade Cape Town, a British aid splinter group, supplied reports to the British Colonial Office. These outlined their concerns that in the event of a war in South Africa healthcare provision to the wounded would be hampered by the lack of recognition for international treaties. The Boers,

they argued, should accede to the Geneva Convention.²⁶ At the Colonial Office, this suggestion was met with approval, and in spring 1896 inquiries were sent by an agent in Cape Town to the Boer republics suggesting adhesion. The responses were lukewarm, and slightly confused. From the South African Republic, Jacobus de Wet responded that the republic was not a member of the St. John Ambulance – a separate, British organisation, with no legal connection to the Red Cross or Geneva Convention – but that he would forward the message. The President of the Orange Free State, Martinus Steyn, responded amicably though asked for a copy of the text of the Geneva Convention.²⁷

Several months later, in early 1897, the British government received formal notification from the Swiss Federal Council, on behalf of the ICRC, that the South African Republic had acceded to the Geneva Convention.²⁸ Internal correspondence indicated that the republic had initiated this request independently of the British inquiry the previous spring, and in the process violated the suzerainty clause of the Treaty of London.²⁹ Yet the British government appeared largely unconcerned by these developments, even suggesting that if the South African Republic wished to also accede to other international treaties, including the ‘Brussels Act’, approval would be granted by the British Queen.³⁰ Though seemingly annoyed that prior approval had not been granted, the value of both parties being signatory to the Geneva Convention appeared assured. A year later, further notification appeared from the Swiss Council that the Orange Free State had acceded to the Geneva Convention.³¹ The application of the terms of the Geneva Convention in South Africa was therefore recognised and uncontested by all participants in the conflict which broke out in October 1899. Theoretically, at least, medical neutrality was assured.

What did accession mean in this context, where information about the Geneva Convention was not readily available? In both republics Red Cross societies, Het Transvalasche Roode Kruis, (the Transvaal Red Cross TRK), and the Orange Vrijstaache Ambulans, (the Orange Free State Ambulance OVA) were founded in 1896 and 1899 respectively. Yet in both, organisational and financial problems, poor leadership, and widespread distrust towards the Red Cross resulted in weakness of each organisation when conflict broke out with Britain.³² The dissemination of the Geneva Convention's text was also limited. It was allegedly printed in a small booklet for members of the TRK, while in the Orange Free State distribution of the Geneva Convention was limited to the actions of an individual doctor.³³ Though Boer leaders did display awareness and understanding of the Geneva Convention, it is uncertain how widely read it was among the rank and file. In the early stages of the conflict Red Cross badges and certificates had been issued almost indiscriminately in South Africa, to foreign volunteers, ambulance drivers, and 'quack' doctors, or those lacking in professional medical degrees.³⁴ As the fighting morphed into guerrilla warfare from mid-1900, most existing doctors were captured while many foreign medical volunteers departed. Men who had in the early stage of the war acted as ambulance drivers or assistants were now seen as the only available option and employed by the Boers as doctors and surgeons. Uncertainty over who was a real medic was complicated by the nature of guerrilla fighting itself – as columns of Boers moved through the countryside in caravans or on horseback. As a result, the line between medical volunteer and soldier became increasingly blurred.

In Britain the discourse surrounding the war in its openings months deployed a language of 'violations' and 'atrocities', either to stress the barbarity of the Boers or to question British conduct from pro-Boer supporters.³⁵ Boer generals also used the rhetoric of international law to challenge the requisitioning of supplies or seizure of ambulances by British troops under

the Geneva Convention.³⁶ When the Boer leaders refused to surrender following the capture of the Boer capitals in March and June 1900, the British deported thousands of captured Boer soldiers to overseas prisoner of war camps, adopted ‘scorched earth’ tactics centring on farm-burning and destruction, and sent women, children, and elderly Boers to internment camps to force Boer surrender.³⁷ These counterinsurgency tactics and subsequent ‘humanitarian crisis’ extended the conflict to the entire population of South Africa, dissolving further the boundary between combatants and non-combatants, and challenging the very possibility of ‘neutrality’ on the ground.

Neutrality during the Guerrilla Conflict

In December 1901, during this guerrilla stage of the conflict, British troops captured a man named Rudolf Krieger just outside modern-day Johannesburg. Krieger claimed to be a “red-cross man” who had been “sent under a flag of truce for medical supplies”.³⁸ He described himself as a German subject, a doctor to the Boer forces, and for a short time, the leader of a fighting commando of foreign volunteers. To test the truth of these claims the British administration contacted the Transvaal Red Cross Committee at Johannesburg. They wanted evidence of his Red Cross certificate, but the committee responded that he was not even one of their members. Next, the British military police employed character witnesses to find out about his background. These included physicians and Boer prisoners, who described Krieger as an “unscrupulous imposter” and a “quack doctor” who was, in reality, a fighting soldier.³⁹ As a result, the British military police deported him as a prisoner of war.

However, Krieger himself seemed to genuinely believe in his medical capabilities and status as a doctor. He wrote to the British commanding general Herbert Kitchener, referring to a list

of British troops he had tended to in the war.⁴⁰ This list was not produced, but the British administration did find papers from the late Boer government commending Krieger's bravery in tending to wounded soldiers. Other reports confirmed he had worked as a doctor before the war and even suggested he had a German medical degree.⁴¹ A testimony provided by his ambulance driver indicated that Krieger was aware of the existence of the 1864 Geneva Convention prior to his arrest and that he had tried to obtain a medical certificate which would affirm his neutrality from the Red Cross at Johannesburg. But the committee had refused to provide him with certificates, as they argued Krieger "is in the first place no doctor and has no diploma, neither does he keep himself within the rules of the Geneva Convention by fighting and looting whenever opportunity offers".⁴² Pillage and looting were prohibited by the 1899 Hague Convention and by customary norms in international law. Looting, justified as military necessity, was widespread by British soldiers in South Africa.⁴³ Yet in Krieger's case, mention of this breach of legal norms created an impression of his character as capable of breaching other legal rules.

Was Krieger an earnest doctor or was he trying to use the Red Cross and the rhetoric of the Geneva Convention as a convenient cover, allowing him to dip in and out of the conflict when it suited him? It is possible that even if he had heard of the Convention, he did not properly read or understand its terms. It is also possible that for Krieger the phrase 'the Geneva Convention' held no legal value. Maybe to him the insignia of the Red Cross presented a talisman – by wearing it Krieger could be protected if captured by the British, as long as he took it off to fight. The testimony of his ambulance assistant seems to support this. He wrote, "I have often seen that he [Krieger] would take off the Red Cross, from his arm, take up his rifle and bandolier and go to the front to fight and he made no secret of it".⁴⁴ Similarly, the British generals noticed that Krieger presented himself as a doctor

or fighter “according to circumstances”.⁴⁵ By substituting the Red Cross band for his gun, Krieger exhibited an understanding of the incompatibility of the two, yet his attempts to obtain a medical certificate, and so the protection of the Geneva Convention, suggest he believed it was possible to switch between the two roles of doctor and fighter. Or, as Jean Pictet later wrote, to choose.

Krieger’s belief in his ability to switch between these two roles can be situated in the pre-existing relationship between the state and medical provision in the Boer republics. The first piece of medical legislation in the South African Republic was an 1844 decree which instituted fines for medical personnel who gave false certificates of illness to exempt men from public duty.⁴⁶ Public duty in the soldier-citizen Boer states included conscription for men over sixteen.⁴⁷ The state’s military need held primacy over the medical profession, which was linked to the wartime state. In previous conflicts against the British and Basuto, civil doctors had been called upon to provide aid, unremunerated, to their armed forces.⁴⁸ When war broke out in October 1899 the lack of state-planned medical intervention and influx of foreign volunteers had resulted in a chaotic medical environment, but for British observers this was often related to the lack of professionalised medical care in the pre-war republics. As one Dutch doctor-volunteer wrote during the war, “if it had been a perquisite for a country to render proof of its ability to take adequate care of its sick and wounded in time of war before being accepted as a co-signatory of the Geneva Convention, the two Republics would not have made the grade”.¹⁵ Medical standardisation and professionalism fuelled civilisational hierarchies, allowing British soldiers to portray the Boers as ‘backwards’ and ‘barbarous’, thereby justifying their exclusion from international law.

Although their own medical provision was also plagued by organisational and communication problems during the war, in denouncing the Boer relief efforts the British Military Police could maintain a sense of civilisational superiority, so that their reading of the Geneva Convention was the correct one.⁴⁹ In this view, neutrality was a status and a code of conduct, which separated the medic from the fighter. Reviewing Krieger's case, the investigating officer asked,

“Was he recognised as a Doctor by the Boer medical administration? Had he a diploma or certificate from the Transvaal Red Cross Society? When employed in connection with the Boer Ambulance did he observe the neutral conduct prescribed by the Geneva Convention?”⁵⁰

These were followed by a final question, asking whether Krieger's conduct had contravened the Geneva Convention to the extent that he could be deported as prisoner of war – or tried under martial law. The questionnaire on Krieger's behaviour illustrates the categorisation and criminalization of battlefield roles using international humanitarian law. If Krieger was a medical worker, it was his responsibility to provide proof that he had acted in line with the terms of the Geneva Convention or be penalized for 'breaking' the 'neutrality' clause. Failing to conform to the standards of neutral conduct 'prescribed by the Geneva Convention' could result in trial or deportation.

Though the 1864 Geneva Convention made no reference to penalisations for violations, this language of punishment for individual infractions was not a novel development. In 1872, in the aftermath of the Franco-Prussian War, Gustave Moynier had advocated for the establishment of an international tribunal to prescribe penal sanctions for infractions of the Convention. Aware that his proposal relied on the acquiescence of states, Moynier argued that they would be absolved of all criminal responsibility for such breaches unless it could be

proved that they had not distributed information about the Conventions.⁵¹ Otherwise, all non-monetary penalties were to be inflicted on individuals. Receiving a lukewarm reception to this proposal, Moynier adapted the ICRC's position, removing reference to an overarching international tribunal. Later plans obliged states to include in their national penal legislation provisions for infringements of the Geneva Convention.⁵² As in Krieger's case, these penalties concentrated on individuals, who had breached international law, but removed penalties for states which had failed to distribute the convention's terms. This focus ensured that Red Cross volunteers could be sanctioned under international law for failing to comply with terms of Conventions they knew little about. It also sanctioned state armies and legislature as the body responsible for imposing penalties, not Geneva or the ICRC.

As the war morphed into a guerrilla conflict, men who had previously occupied combat roles with the Boer forces now acted in the place of captured doctors or vacated foreign medical volunteers. One doctor with a Boer commando was allegedly considered qualified because "it was said before the war a certain Doctor had employed him to hold the arms and legs of patients upon whom he was operating".⁵³ As men took up roles in hospitals or accompanied commandos in ambulances, they assumed they had acquired corresponding neutrality for this medical work. Throughout the guerrilla phase of the war Boer generals redeployed older, retired fighters to work in hospitals as well as enlisting nearby civilians to help aid their wounded while travelling with the Boer commandos.⁵⁴ Despite holding 'Red Cross certificates' signed by the Boer military authorities, British forces routinely detained and deported these hospital volunteers, whom they viewed as active participants in the conflict. This activity further collapsed the distinction between medic and fighter, and for many volunteers with the Boer forces neutrality became a subjective, if not impossible, standard to obtain.

When Peter Koornhof was detained by British soldiers in March 1902, he set out for them his wartime experiences.⁵⁵ He declared that he had worked as a doctor in a field-hospital until June 1900, treating both British and Boer wounded soldiers. He was captured by the British, but released as a medic, then commandeered by a Boer commando, who allowed him to form part of their mobile ambulance unit rather than fight. In 1901, the Boer general Christian de Wet stationed him at a hospital where he was captured. But the British were unconvinced by this story. The capturing officer wrote to the military police that, “The house could hardly be called a hospital, as it had none of the usual appliances except a flag”.⁵⁶ Koornhof was charged with violating his parole, and the British soldiers ignored his protests that he had worked for the Boers against his will. They argued that he had had ample opportunity to abandon his post and so prove his neutrality.⁵⁷ In his depositions to the military police, Koornhof vainly protested this detention using the rhetoric of international law, writing “I was always neutral, and behaved myself according to the Geneva Convention, I hereby have the liberty to request that I will be kindly treated according to said Convention”.⁵⁸ In statements like these, neutrality was the central claim on which the protections of the Geneva Convention rested. For Koornhof it failed, and the Military Police ordered his deportation as a prisoner of war. Considering his case prompts questions about the temporality of healthcare provision, and the identification of medical workers. Though arrested alongside five wounded men, Koornhof’s ‘hospital’ held few supplies, not enough to warrant classification as a doctor. If he was not actively engaged in the act of healing when he was arrested, was he entitled to medical immunity and protection?

British emphasis on the ‘neutrality’ component of the Geneva Convention ensured that assessments of the medical veracity of ‘Red Cross men’ captured alongside Boer troops were

not limited to evaluations of medical supplies or healthcare provision. Instead, they often focused on the character and reputation of the detained. One Dutch ambulance-driver, Hans Pasch, was accused of breaching the neutrality by preaching virulent anti-British speeches in an internment camp following his capture.⁵⁹ Despite indications that Pasch possessed some knowledge of first-aid, British soldiers insisted that he was not a doctor. Their case against Pasch relied heavily on testimonies regarding his character, including descriptions of his anti-British rhetoric, his religious ‘fanaticism’ and the danger he posed to other prisoners. His personal political beliefs were integrated into assessments of his medical provision, as a component of his ‘neutrality’. Though Pasch later admitted that he had previously fought in the conflict, he pointed to the medical predicament facing the Boers, arguing that “If the English army had not taken our Doctors prisoners and had there been no work for doctors, I wouldn’t have done so.”⁶⁰ In other cases, doctors who volunteered with the Boers continued to be treated with suspicion when they returned to civilian life. John Boje has shown that despite holding a Red Cross certificate and treating wounded British soldiers, one such doctor in Ceres was charged in September 1901 with actions prejudicial to public safety and deported to Malmesbury as an ‘undesirable’.⁶¹

Krieger, Koornhof, and Pasch were not the only ‘Red Cross men’ detained by the British Military Police during the guerrilla stage of the war.⁶² While some, ‘bona fide’ Red Cross men were quickly approved by their detainers, others were forced to negotiate, by making claims about their status and protections under international law. Their cases illustrate a disjunction between the understanding of what constituted the neutrality of medical personnel on the British and the Boer sides of the conflict. In the Boer republics, wartime citizenship had dissolved the distinction between fighter and doctor, with medical provision viewed as requisitionable by the state. What was meant by the neutrality of individuals in wartime

was not discussed by British authorities in South Africa or in the *Manual of Military Law*. The latter simply argued that those tending to the wounded could divest themselves of their non-combatant character by using arms, which would render them liable to attack.⁶³ In the years leading up to the conflict, members of the War Office had repeatedly expressed their frustration at provisions for neutral foreign volunteers in conflict under the 1864 Geneva Convention, arguing that the administration of medical relief should be solely the preserve of states.⁶⁴ Perhaps this helped shape the British idea of medical neutrality as sustained externality, or removal from the conflict. Boer neutrality appeared more ephemeral and temporally contingent. In the files of the military police, British investigators focused on the sum of all wartime activities, Boer defences on the specificity of the moment of capture.

Despite this, existing research has shown that the various groups which made up the British National Aid Society during the war, in many respects failed to live up to this neutrality requirement imposed on the Boers during the guerrilla conflict.⁶⁵ Not only was their parent organisation connected to both the War Office and public war effort, many medical volunteers with the BNAS did not display the perfect standard of neutrality enforced by British soldiers. Loopholes in approving British volunteer nurses ensured that many did not have three-year training certificates or requisite Red Cross training.⁶⁶ Though criticisms abounded in the British press of the Boer ‘volunteer army’, the majority of British army and medical reserves were also volunteers, from a variety of backgrounds and trainings.⁶⁷ Finally, like their Boer counterparts, British generals often stationed medical volunteers in hospitals, even those who had previously participated in the conflict. Ill-equipped medical volunteers, dubious adventurers and so-called ‘quacks’ pervaded on both sides of the conflict, yet medical standards were enforced asymmetrically, by superior British military power.⁶⁸

In refuting the status of the ‘Red Cross men’, British soldiers were both asserting an unreciprocated standard of professionalization for Boer medical volunteers and reflecting a scepticism in the British army towards military medical workers, entrenched since the Crimean War.⁶⁹ Caught between combatants and non-combatant, military medical personnel occupied an increasingly untenable position as the British sought to remove all ‘undesirables’, or potential threats, from the theatre of war. Their claims to legal protection could be disputed as they failed to confirm standards of medical professionalism, or ideals about humanitarian volunteering which centred on distinct activities of male chivalry and female caring. Idealised humanitarian masculinity, encoded from Dunant’s *Souvenir de Solferino* onwards, was portrayed as self-sacrificing, risk-taking and gentlemanly; not the preserve of men of dubious character interested in self-preservation.⁷⁰ After Crimea, Florence Nightingale had expressed doubts about male medical orderlies, while affirming the primacy of female caregiving through her maxim “every woman is a nurse”.⁷¹ In the first year of the war, this view of a separate sphere of female nurturing somewhat benefitted Boer women, who were not required to take oaths of neutrality or imprisoned for flaunting their sympathies in the war.⁷² While male medical volunteers might still be capable of fighting, simply through the act of taking up a gun, women did not possess the legal right to kill.

However as the war progressed, British portrayals of Boer women as militaristic further upended distinctions between combatants and civilians, already eroded by counterinsurgency tactics of colonial conquest. The archipelago of concentration camps erected from mid-1900 onwards adapted military structures and practices of confinement to a humanitarian discourse of protection.⁷³ General Frederick Roberts claimed the camps were to protect the black

population along with Boer women, children, and elderly, even as he issued proclamations legitimating the destruction of houses and burning of farms.⁷⁴ Women were viewed as hostile to the British, violent, and contributing to the ongoing war effort by forcing their husbands to fight. Their arrival into the camps signalled British acknowledgement of the threat they posed, as well as their vulnerability in the theatre of war. Even while professing to offer protection in the concentration camps, British observers criticized Boer women for their lack of sanitation, their preference for Dutch medicines and trusted remedies, citing these as part of the explanation for high mortality rates.⁷⁵ The rampant disease and malnutrition in the camps which led to the deaths of thousands of these refugee-prisoners suggest that a parallel realm of healthcare, grounded in the home and traditional cures, was also under attack. The experience in these camps underscores the fragility of divisions between ‘combatants’ and ‘non-combatants’, humanitarianism and violence, medical professionalism and other forms of medical care. They point to the impossibility of the British ideal of neutrality, or sustained externality, from conflict when that conflict was a colonial total war.

Conclusion

War in South Africa demonstrates the contingent nature of neutrality as a concept, highly dependent on individual interpretations, contexts, and relations. Neutrality and the international law behind it were wielded by the British as a mechanism for regulating the conflict and medical relief activities on the ground in South Africa. In their hands, the terms of the Geneva Convention enforced standards on medical personnel which inhibited their ability to adequately tend to the wounded or legitimated the detention of those providing medical relief. Medical workers who had no apparent military background, including the founder of the Orange Free State Red Cross Society, were captured during the guerrilla phase

of the war.⁷⁶ A subsequent lack of available medical personnel drove those with limited medical experience to occupy their roles, relying on likeability, tenacity, and nerves. In contesting their capture on the ground, medical volunteers with the Boer armies affirmed their belief in the ability to move between roles, whether opportunistically or altruistically.

Yet for the British soldiers, neutrality was a code of conduct which seemed to rely as much on the character, loyalties, and respectability of medical personnel as on legal regulations. The existence of the Geneva Convention provided these soldiers with a text through which they could measure how deserving medical workers were of protection. By failing to conform to the stipulation that medical workers must be ‘neutral’, men had ‘broken’ international law and could be ‘punished’, through deportation or even trial. Firmly untethered from Dunant’s dreams of participatory humanitarianism, acceptable provision of medical care relied on conforming to a vision of medical and military professionalism. What was at stake was less about medical provision itself, than about the instrumentality of medical practices to achieve standardisation and control.⁷⁷ The detention of men like Krieger, Koornhof, and Pasch was justified by their captors because of their failure to conform to these standards, regardless of the medical care they may have provided.

This assessment of international law in the South African conflict appears oxymoronic as the Geneva Convention was ostensibly proposed to the South African Republics as a mechanism for improving conditions for the wounded on the ground, just four years before the war broke out. During the 1880 war between Britain and the South African Republic, the Netherlands Red Cross Society had been permitted to enter the conflict as a ‘neutral’ provider of medical relief, although the Geneva Convention had not formally been ratified by both parties.⁷⁸ In

this conflict, British sergeants reported their attempts to convey explanations of the Geneva Convention to Boer commandants, even though they were at that point a non-signatory party to the Convention.⁷⁹ In 1880 the ‘spirit’ of the Geneva Convention’s voluntary humanitarianism prevailed without formal legal ratification, or even textual awareness on the ground. Twenty years later, ratification became an obstacle to medical provision.

The controversies which emerged during conflicts in the nineteenth century laid the basis for a reassessment of the Geneva Convention in 1906. The updated convention placed the operation of national Red Cross societies under the direction of the military. All mentions of neutrality were also removed – whether of wounded soldiers or medical volunteers.⁸⁰ The Convention laid out that the terms ‘Geneva Convention’ and ‘Red Cross’ could only be used by medical personnel who had the authority of military commanders.⁸¹ By limiting its use only to signatories, the Convention’s boundaries were confined to territorial states, or empires, and redrawn away from guerrilla factions, irregular soldiers, and individual volunteers.

In the War Office this development was warmly welcomed, and an explicit link drawn between the updated Convention and the experiences of the British military during the South African conflict. Internal correspondence noted that in 1901, during the guerrilla stage of the war, the British Secretary of State for Foreign Affairs had written to the Swiss Republic on the subject of the abuse of the Red Cross emblem.⁸² The British view was that ‘unauthorized use’ of the Red Cross symbol should result in ‘heavy penalties’. Article 23 of the 1906 Geneva Convention which restricted the use of the ‘Red Cross’ symbol, and Articles 27 – 28 which permitted states to punish irregular use of the emblem through penal legislation, seemed to British observers to be drawn from this experience in South Africa.⁸³ Though the

1906 Convention criminalised individuals for breaches, it contained no provisions placing responsibility on states to educate soldiers or volunteers in the field.⁸⁴ The individual volunteers of 1864 disappeared in 1906, except in their culpability for these breaches, their lack of ‘self-control’.⁸⁵ The choice, to serve the Red Cross or to fight, now lay in the hands of states and military commanders, who assessed, sanctioned and legitimated the provision of medical care. Experiences on the ground in South Africa were crucial in redefining this legislation. Even today, though modern international humanitarian law only removes neutrality from medical workers who have directly participated in conflict, the belief that the neutrality of medical workers can be forfeited by political, ethnic, national, or religious allegiances in conflict has persisted, and has contributed to attacks on medical workers.⁸⁶

¹ Jean Pictet, *The fundamental principles of the Red Cross proclaimed by the Twentieth International Conference of the Red Cross, Vienna, 1965: commentary*, (Geneva: Henri Dunant Institute, 1979): 8 - 9

² David P. Forsythe, “On Contested Concepts: Humanitarianism, Human Rights, and the Notion of Neutrality”, *Journal of Human Rights* 12, no. 1, (March 2013): 59 – 68

³ Pictet, *Fundamental Principles*, 37 – 38; This distinction is further elaborated in Hans Haug, *The Fundamental Principles of the International Red Cross and Red Crescent Movement*, (Geneva: Henri Dunant Institute/Paul Haupt, 1993): 467 - 468

⁴ Pictet, *Fundamental Principles*, 36

⁵ Marion Harroff-Tavel, “Neutrality and Impartiality: The importance of these principles for the International Red Cross and Red Crescent movement and the difficulties involved in applying them”, *International Review of the Red Cross* 29, no. 273, (January 1989), 536 - 552

⁶ On how Pictet’s principles redefined the concept of impartiality, see Joël Glasman, *Humanitarian and the Quantification of Human Needs*, (Abingdon: Routledge, 2020)

⁷ Exceptions include, S. B. Spies, *Methods of Barbarism? Roberts and Kitchener and civilians in the Boer Republics, January 1900 – May 1902*, (Cape Town: Herman and Rousseau, 1977); S. B. Spies, “*The Hague Convention of 1899 and the Boer Republics*”, in *Scorched Earth*, ed. Fransjohan Pretorius (Cape Town: Tafelberg Publishers Ltd, 2017): 166 - 176. Maartje Abbenhuis, *The Hague Conventions and Imperial Politics, 1898 - 1915*, (London: Bloomsbury 2018): 97 – 120; Stephen M. Miller, “Duty or Crime? Defining Acceptable Behaviour in the British Army in South Africa, 1899 – 1902” *Journal of British Studies* 49, no. 2, (April 2010): 311 – 331

⁸ Daniel Marc Segesser, “Le concept de neutralité et la Convention de Genève de 1864” in *Le temps des hommes doubles: Les arrangements face à l’occupation. De la Révolution française à la guerre de 1870*, eds. Annie Crépin et al, (Rennes: Presses universitaires de Rennes, 2013): 69 – 84; Carl Lueder, *La convention de Genève au point de vue historique, critique et dogmatique*, (Erlangen: E. Besold, 1876)

⁹ Michael Barnett, *Empire of Humanity: A History of Humanitarianism*, (Ithaca NY: Cornell University Press, 2011), 76 – 82; Geoffrey Best, “The Geneva Conventions: Past, Present and Future”, *The RUSI Journal* 119, no. 2, 9 (1974): 22 – 27; Francois Bugnion, “Birth of an idea: the founding of the International Committee of the Red Cross and of the International Red Cross and Red Crescent Movement: from Solferino to the original Geneva Convention (1859 – 1864)”, *International Review of the Red Cross* 94, no. 888, (December 2012), 1299 – 1338; James Crossland, *War, Law and Humanity, The Campaign to Control Warfare, 1853 – 1914*, (London:

Bloomsbury Academic, 2018), 57 – 76; David Forsythe, *The Humanitarians: The International Committee of the Red Cross*, (Cambridge: Cambridge University Press, 2005), 13 – 50

¹⁰ John Hutchinson, “Rethinking the Origins of the Red Cross”, *Bulletin of the History of Medicine* 63, no. 4, (Winter, 1989): 568 – 569; John Hutchinson, *Champions of Charity: War And The Rise Of The Red Cross*, (Boulder CO: Routledge, 1996)

¹¹ Shai Dromi, *Above the Fray: The Red Cross and the Making of the Humanitarian NGO Sector*, (Chicago: University of Chicago Press, 2020): 35 – 57

¹² Geoffrey Best, *Humanity in Warfare: The Modern History of the Law of Armed Conflicts*, (Bristol: Routledge, 1983): 149 – 155

¹³ 1864 Geneva Convention, <https://ihl-databases.icrc.org/ihl/INTRO/120>, (Accessed November 2021)

¹⁴ Lueder, *La convention*, 287 – 288

¹⁵ Crossland, *War, Law*, 99 – 114; Victor Segesvary, “During the Franco-Prussian War of 1870 – 1871: The Birth of Red Cross Solidarity”, *International Review of the Red Cross* 10, no. 117, (December 1970): 633 – 685; Lueder, *La Convention*, 293 – 294

¹⁶ Bertrand Taithe, “The Red Cross Flag in the Franco-Prussian War: Civilians, Humanitarians and War in the ‘Modern Age’, in *War, Medicine and Modernity*, eds. Roger Cooter, Mark Harrison and Steve Sturdy, (Sutton: Sutton Publishing Ltd., 1998), 22 – 47

¹⁷ Davide Rodogno, *Against Massacre: Humanitarian Interventions in the Ottoman Empire, 1815 – 1914*, (Princeton NJ: Princeton University Press, 2012): 141 – 169; Rebecca Gill, *Calculating compassion: Humanity and relief in war, Britain 1870 – 1914*, (Manchester: Manchester University Press, 2013): 73 – 124; Separate to the British National Aid Society the Stafford House Committee provided support for Turkish soldiers in the conflict; Sarah Roddy, Julie-Marie Strange, and Bertrand Taithe, *The Charity Market and Humanitarianism in Britain, 1870 – 1912*, (London: Bloomsbury Academic: 2018): 99 – 120

¹⁸ Crossland, *War, Law*, 150; Hutchinson, *Champions*, 150 – 201

¹⁹ Rachel Chrastil, “The French Red Cross, War Readiness and Civil Society, 1866 – 1914”, *French Historical Studies* 31, no. 3, (August 2008): 445 – 476

²⁰ Matthew Kennedy and Chris Holdridge, “‘The recognized adjunct of modern armies’: foreign volunteerism and the South African war”, *European Review of History* 27, no. 1 – 2, (March 2020): 111 – 133

²¹ Daniel Palmieri, “An institution standing the test of time? A review of 150 years of the history of the International Committee of the Red Cross”, *International Review of the Red Cross* 94, no. 888, (Winter 2012): 988 – 990

²² Bruce A. Knox, “The Rise of Colonial Federation as an Object of British Policy, 1850 – 1870”, *Journal of British Studies* 11, no. 1, (November 1971): 92 – 112; Denis Judd and Keith Surridge, *The Boer War*, (London: John Murray, 2002): 25 – 31; Iain Smith, *The Origins of the South African War 1899 – 1902*, (London: Longman 1996): 22 – 32

²³ These terms only applied to the South African Republic – but were informally extended to the Orange Free State.

²⁴ The National Archives Kew [TNA] Foreign Office [FO] 93/107/3, *Amendment of Convention of 3rd August 1881*, London, 27th February 1884

²⁵ Stanley Trapido, “Imperialism, Settler Identities, and Colonial Capitalism: The Hundred Year Origins of the 1899 South African War”, in *Cambridge History of South Africa Vol. 2: 1885 – 1994*, eds., Bill Nasson, Robert Ross and Anne Kelk Mager, (Cambridge: Cambridge University Press, 2011): 66 – 101

²⁶ Relating to affairs in the South African Republic, (April 1896), C. 8063, No. 84 at 99

²⁷ Further Correspondence relating to Affairs in the South African Republic, (April 1897), C. 8423, Enclosures 1 – 5 No. 71 at 60 – 62; S. B. Spies, “The Hague Convention of 1899 and the Boer Republics”, in Fransjohan Pretorius (ed.), *Scorched Earth*, (Cape Town: Human & Rousseau, 2001): 166 – 176

²⁸ Further Correspondence, C. 8423, No. 88 at 79 – 80. This accession was communicated to the Swiss in September 1896.

²⁹ Further Correspondence, C. 8423, Enclosure 6 No. 71, at 80; No. 65 at 54

³⁰ It is unclear from the available documents if this refers to the 1890 Brussels Act which attempted to end slavery or the 1874 Brussels Declaration which enshrined certain practices of international law. Further Correspondence, C. 8423, No. 116 at 112; No. 127 at 124

³¹ National Archives of South Africa Bloemfontein, General Secretary Files [GS] 1711, “Accession to the Geneva Convention”

³² J. C. de Villiers, *Healers, Helpers, and Hospitals: A History of Military Medicine in the Anglo-Boer War*, (Pretoria: Protea Book House, 2008), 47 – 53; Elizabeth Van Heyningen “The South African War as humanitarian crisis”, *International Review of the Red Cross* 97, no. 900, (2016), 999 – 1028

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- ³⁵ Vincent Kuitenbrouwer, *War of Words: Dutch Pro-Boer Propaganda and the South African War (1899 – 1902)*, (Amsterdam: Amsterdam University Press, 2012); Maartje Abbenhuis, *The Hague Conferences and International Politics, 1898 – 1915*, (London: Bloomsbury Academic, 2020); Bill Nasson, *The War for South Africa*, (Cape Town: NB Publishers 2010) 266 - 272
- ³⁶ TNA War Office [WO] 32/8055, Louis Botha to Herbert Kitchener, 10th September 1901
- ³⁷ Spies, *Methods of Barbarism*. For recent interpretations and overviews of British tactics: André Wessels, “A Historical Overview of the Boer Guerrilla and British Counterinsurgency Operations During the Anglo-Boer War, 1899 – 1902”, *Small Wars and Insurgencies* 34, no. 2, (March 2023): 328 – 356; Van Heyningen, “The South African War”; Jonathan Hyslop, “The Invention of the Concentration Camp: Cuba, Southern Africa and the Philippines, 1896 – 1907”, *South African Historical Journal* 63, no. 2 (June 2011): 251 - 276
- ³⁸ National Archives South Africa Pretoria [NASAP] Provost Marshall Office [PMO] 43 PM 2915 “Enquiry into circumstances under which Dr Rudolf Krieger was captured”
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- ⁴⁰ NASAP PMO 43 PM 2915 Letter, Krieger to Kitchener, 5th February 1902
- ⁴¹ NASAP PMO 43 PM 2915 Letter, Lieut-Colonel Lee to PM AM2, 2nd February 1902; “Re re Krieger”, Robert Poore, Memorandum, 12th February 1902
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- ⁵³ Max Weber, *Eighteen months under General de la Rey*, (Pretoria: Bienenell Publishers, 1999), 162
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