

A Sign of Protection in Harsh Times: The Distinctive Emblems of the Red Cross, Red Crescent and Red Crystal

Silvia Urizzi

Specialista in Diritto Internazionale Umanitario e Diritto Internazionale dei Diritti Umani, Geneva Academy of International Humanitarian Law and Human Rights

1. *Preface* – On 5 February 2024 the International Committee of the Red Cross (ICRC)¹ posted a statement denouncing the killing of two Palestine Red Crescent (PRCS) paramedics hit by the Israeli forces while attempting to rescue the six-year-old Hind Ragab, who remained trapped in her family car for several days with her relatives’ dead bodies trying to flee the hostilities in Gaza². That was just yet another statement made by a humanitarian organization denouncing the illegal attacks to humanitarians delivering assistance to civilians affected by the recent conflict in the middle east³. Besides the International Red Cross and Red Crescent Movement (hereinafter ‘the Movement’), composed by the ICRC itself, the International Federation of the Red Cross (IFRC) and the National Red Cross and Red Crescent Societies⁴, also other humanitarian and international organisations condemned the grave attacks carried out against medical personnel during the conflict. For the purposes of this article, it is interesting to note that their posts often stressed on the fact that the people and the objects hit were clearly marked with the protective Red Crescent emblem⁵.

The idea of having a symbol, an emblem, used and recognized by anyone affording protection in situations of armed conflict, is not new and its origin dates back to the first Geneva Convention of 1864⁶. Through the internationally recognized emblems of the red cross, red crescent, the red crystal and red lion and sun (hereinafter referred to as “the

¹ The International Committee of the Red Cross is an impartial, neutral and independent organization and its humanitarian mission is to protect the lives and dignity of persons affected by armed conflicts as well as other situations of violence and to provide them with assistance. Further information at <https://www.icrc.org/en/who-we-are>.

² The ICRC’s LinkedIn post is available at https://www.linkedin.com/posts/icrc_gaza-activity-7162125313114554368-IIV1?utm_source=share&utm_medium=member_desktop. For further details see <https://www.bbc.com/news/world-middle-east-68261286>.

³ On October 7, 2023 Hamas and the Palestinian Islamic Jihad carried out a series of coordinated armed incursions into the Gaza envelope of neighboring Israel. In response to the attacks the Israel Defence Forces (‘IDF’) launched the operation ‘Swords of Iron’ with the aim to strike Hamas targets in Gaza. The still ongoing conflict led to the death of more than 30,000 persons with the majority of them being civilians not taking part to the hostilities and reopened a series of questions regarding the nature of the conflict and whether Israel still occupies the West Bank, including East Jerusalem, and the Gaza Strip. For a short history and a general overview on the conflict between Israel and Palestine see <https://www.rulac.org/news/the-armed-conflict-in-israel-palestine>. It is worth to note that beside the Israel-Hamas conflict some scholars identify the existence a new armed conflict between Israel and Hezbollah, along with two new armed conflicts respectively involving Israel and Lebanon, and Israel and Syria. For further details see <https://www.geneva-academy.ch/news/detail/661-rulac-update-of-our-entry-on-the-military-occupation-of-palestine-by-israel>.

⁴ See <https://www.icrc.org/en/who-we-are/movement>.

⁵ For some examples see the IFRC’s post on the killing of three PRCS members <https://www.ifrc.org/article/ifrc-three-palestine-red-crescent-members-killed-unacceptable> or the PRCS’s statement denouncing the killing of four medical team members and two transported injuries in Gaza Strip by the Israeli forces available at <https://www.palestinercs.org/public/files/image/2024/statements/en%20101%20statement%2010012024.pdf>.

⁶ A. Bouvier, *Special aspects of the use of the red cross or red crescent emblem*, in *International Review of the Red Cross*, 1989, p. 438.

emblem”)⁷, international law and in particular international humanitarian law (IHL), grants protection to the wounded and sick and to those providing them with medical assistance and relief. Those symbols, the last of which is no longer in use⁸, are visible expressions of neutral and impartial humanitarian assistance and protection to which the wounded and sick are entitled in times of armed conflicts, natural disasters and other emergencies and their uses are specifically regulated by the Geneva Conventions of 1949, the Additional Protocols of 1977 and 2005 and by the national law⁹.

Given their crucial role in alleviating suffering on the battlefield all belligerents are called to understand and respect the IHL rules governing the use of the emblem at all times, and this remains true both during international armed conflicts (IACs) and non-international armed conflicts (NIACs)¹⁰. As we will discuss further, under IHL, the emblem serves two distinct purposes, it may be used as protective or as indicative device depending on the functions and the circumstances in which it is displayed¹¹.

The first part of this paper will focus precisely on the analysis of the protective and indicative uses of the emblem illustrating the rules governing them both in times of war and peace. After having clarified how the emblem can be used, by whom and under which circumstances the following part of the paper will be dedicated to the analysis of the misuses of the emblem, meaning the violations that may happen when the emblem is used by entities and/or persons who, under IHL, cannot use the emblem or in situations in which the emblem is used by those authorized but in a way that is not consistent with IHL rules. To conclude, the last part of the paper will be dedicated to the proposal made by the ICRC to digitalize the emblem in response to the growing number of cyber operations targeting the humanitarian organization and the medical sector in particular in the attempt to show the importance to adapt the existing rules on the emblem to the new challenges posed by recent armed conflicts.

⁷ See <https://www.icrc.org/en/doc/war-and-law/emblem/overview-emblem.htm>. On the same topic see also M. Sassòli, *International Humanitarian Law: Rules, Controversies, and Solutions to Problems Arising in Warfare*, Edward Elgar Pub, 2019, pp. 243-245.

⁸ The red lion and sun symbol has not been used since the Islamic Republic of Iran’s declaration, on 4 September 1980, when Iran decided to use the red crescent as its distinctive emblem instead of the red lion and sun. For further details see *Ibid.* For a detailed history of the origin of the emblem see also F. Bugnion, *The Emblem of the Red Cross – A brief history*, in *International Committee of the Red Cross*, 1977, pp. 167-298. See also the ‘Iran, Renouncing Use of the Red Lion and Sun Emblem’, available on the Online Casebook of the Red Cross at <https://casebook.icrc.org/case-study/iran-renouncing-use-red-lion-and-sun-emblem#toc-discussion>.

⁹ In particular see Geneva Convention (‘GC’) I, Arts. 38-44, 53 and 54; GC II, Arts. 41-45; GC IV Arts. 18-22; Additional Protocol (‘AP’) I, Arts. 8, 18, 38 and 85 and Annex I; AP II, Art. 12; AP III Arts. 1-7. National legislation, adopted in accordance with IHL rules, must regulate the use of the emblem in peacetime and in time of armed conflict. In particular, national legislation must repress misuses and abuses. Besides these legal instruments also the 1991 Emblem Regulations, strictly binding only upon the Movement components, provide useful rules governing the use of the emblem. The Emblem Regulations are available here <https://www.icrc.org/en/doc/resources/documents/article/other/57jmbg.htm#:~:text=The%20ground%20shall%20always%20be%20white>.

¹⁰ Even if IHL of IACs provides the most detailed rules on the use of the emblem, Art. 12 of AP II, applicable in case of NIACs, foresees that the emblem can be used “under the direction of the competent authority” also in NIACs. For further details on this aspect see M. Sassòli, *International Humanitarian Law*, cit., p. 243.

¹¹ The legal basis for the distinction between the protective and indicative uses of the emblem can be found in Art. 44 of the first Geneva Convention, paras 1 and 2.

2. *Protective use* – The emblem is essentially intended to be used as a protective device. Indeed, its most important function is to identify medical personnel, units and transports in times of armed conflict in order to facilitate the special protection they are entitled to under IHL. Thus, as a protective device the emblem is the visible sign of the special protection provided by IHL for certain categories of persons and objects¹².

Initially, the military, and in particular the medical services of the armed forces, were the main and only users of the emblem¹³ but today, it can be used also by the civilian medical staff, units and transports. Doctors and other medical personnel can use the emblem only when expressly authorized by the pertinent public authorities and under the control of a party involved in the conflict¹⁴. If these conditions are fulfilled, also the civilian medical personnel, units (including civilian hospitals) and transports (such as ambulances, medical air ambulance, hospital ships)¹⁵ may use the emblem as a protective device when they are assigned to the treatment and care of the wounded, sick and shipwrecked during an armed conflict¹⁶. In this respect, it is key to underline that food and reliefs convoys as well as members of NGOs are normally impeded to use the emblem as a protective device, unless they are working under the direction of the ICRC¹⁷. In the same manner the National Societies may use the emblem only if they work as the medical services of a party or when they operate under the control of the ICRC¹⁸.

Because the main and primary function of the emblem is to provide protection to certain people and objects during an armed conflict, it is essential that all the parties of the conflict are able to clearly see and recognize it even at great distances. To ensure maximum visibility, IHL provides that in times of armed conflict the emblem must be large in comparison to the person or the object wearing or marked with it, displayed in red on a white background and shown in its original form¹⁹, without additional drawings, wordings, titles and with no other alterations²⁰. According to IHL, the distinctive emblem must be displayed on protected buildings, such as hospitals or medical vehicles and when worn as armband or vests the emblem must be clear and stand alone. To fulfill its protective aim the distinctive emblem must be used only for medical purposes and should not be misused (used for purposes different from the ones specifically indicated by IHL rules).

¹² M. Sassòli, *International Humanitarian Law*, cit., p. 245 f.

¹³ In particular see GC I, Arts 39–43; GC II, Arts 41–43. For medical transports, see GC I, Art 35 (by land); GC II, Arts 22, 24, 26–27 and 43 (by sea); GC I, Art 36, and GC II, Art 39 (by sea), *ibid.*, footnote 77.

¹⁴ *Ibid.*

¹⁵ See ICRC CIHL Database, Rule 29.

¹⁶ For a comprehensive list of persons, units and transports entitled to use the protective emblem, see ‘ICRC Study on Operational and Commercial and Other Non-operational Issues Involving the Use of the Emblems’ (‘the Emblem Study’), 23–25 November 2009, pp. 26–28. ‘The Emblem Study’, is currently available in English, French, Spanish, and Arabic, and it may be consulted at <https://www.icrc.org/en/doc/assets/files/publications/icrc-001-4057.pdf>. For further details see B. Rolle, E. Lafontaine, *The emblem that cried wolf: ICRC study on the use of the emblems*, in *International Review of the Red Cross*, 2009, pp. 759–778.

¹⁷ See M. Sassòli, *International Humanitarian Law*, cit., p. 245. On the use of the emblem for protective purposes see also ‘the Emblem Study’, cit., pp. 161–166.

¹⁸ *Ibid.*

¹⁹ Art. 44 of the Commentary on GC I, provides that, when used as a protective device, the emblem must always retain its original form: “[t]he protective sign, consisting of a red cross on a white ground, as prescribed by the Geneva Convention, should always be displayed in its original form, without alteration or addition.”

²⁰ See Art. 5 of the Emblem Regulations, paras 1 and 2.

In case of misuse, a party of the conflict should promptly intervene to repress and punish such violations.

To conclude this brief paragraph on the protective use of the emblem, it must be stressed that the emblem simply represents a recognizable sign of protection but does not per se confer protection. The protection is granted by IHL (mainly in the Geneva Conventions and their Additional Protocols) and the emblem is merely a visible sign of such protection. Therefore, even when the persons and objects entitled to use the emblem for protective purposes do not display it, they still retain their right to protection. There is indeed no absolute obligation for those entitled to use the emblem, however its use is strongly recommended because an enemy must be able to recognize a protected person or unit as such²¹. Under international law, deliberately targeting a person or an object carrying the protective emblem constitutes a war crime both in IACs and NIACs²² and must be punished.

3. *Indicative use* – Mainly in times of peace, the emblem is displayed for indicative purposes. When used as indicative device the emblem does not provide protection but rather it shows that a person or an object or an activity (when carried out in conformity with the Red Cross or the Red Crescent principles) is affiliated with the Red Cross or the Red Crescent, mainly those of the National Societies, or one of its other components²³. In brief, when used as an indicative device the emblem signifies and displays the link between a person or an object displaying it and the Movement. As such, the emblem also symbolizes the independent, neutral and impartial nature of the action of the Movement²⁴.

According to IHL when used as an indicative device and in times of armed conflict, the emblem must be displayed in small dimensions in comparison with the person and the object displaying it, to avoid any confusion between the indicative and protective use, and usually contains additional information (e.g. the name or initials of the component of the Movement concerned)²⁵. To clearly diversify its use as a protective and as an indicative device and to avoid the confusions between the two uses, when displayed for indicative purposes, the emblem, even if small in size²⁶, may not be placed on armlets or painted on the roofs of buildings²⁷. Avoid the confusion between the protective and the indicative use of the emblem is key particularly in situations of armed conflict where, as we have seen, the emblem may be also used as a protective device. In this regard, the ICRC's 'Study on Operational and Commercial and Other Non-operational Issues Involving the

²¹ See 'the Emblem Study', cit., p. 30.

²² See ICRC CIHL Database, Rule 30.

²³ GC I, Art 44(2)-(4).

²⁴ The seven Fundamental Principles of the Movement are humanity, impartiality, neutrality, independence, voluntary service, unity and universality. For further details see 'The Fundamental Principles of the International Red Cross and Red Crescent Movement', International Committee of the Red Cross. Available here https://www.icrc.org/sites/default/files/topic/file_plus_list/4046-the_fundamental_principles_of_the_international_red_cross_and_red_crescent_movement.pdf.

²⁵ See Art. 4 of the 1991 Emblem Regulations (and its commentary).

²⁶ The exact size, the maximum dimension of the distinctive emblem when used for protective or indicative purposes has not been clearly defined by IHL. For further details on this topic, see Art. 44 on the Commentary of GC I.

²⁷ See 'the Emblem Study', p. 79.

Use of the Emblems’ (hereinafter ‘the Emblem Study’)²⁸, makes a clear distinction between the ‘emblem’, understood as the emblem used as a protective device and the ‘logo’ of a component of the Movement used when the symbols of the red cross, red crescent and red crystal are used for indicative purposes only²⁹. Under IHL, any use of the emblem as an indicative device must comply with national legislation. Only persons and objects linked to the Movement can display the emblem in peacetime, however, as an exceptional measure, if it is foreseen by the national legislation and only with the express permission of one of the National Societies, the emblem may be used in times of peace to identify ambulances and to mark first-aid stations providing free treatment to the wounded and sick³⁰. In all other circumstances doctors, pharmacies and hospitals may not use to the emblem if they are not linked to a National Society.

Lastly it is worth to note that the ICRC and IFRC are entitled to use the emblem at all times, both in peace and war times, for all their activities and with no need of specific authorization. In this regard, some scholars and IHL practitioners are debating the possible interpretations of this particular use of the emblem. In particular, according to professor Marco Sassóli from the Geneva Academy this use of the emblem simply amounts to a special indicative use and does not provide any special protection under IHL. Indeed, according to him, the ICRC personnel, transports and establishments are protected as civilians and civilian objects, which normally cannot use the emblem³¹. On the contrary, the Updated Commentary of the First Geneva Convention³², the main source for the practical implementation of the Conventions, gives a wider interpretation according to which the International Red Cross organisations can use the emblem at all times for both indicative and protective purposes. According to this last interpretation, the ICRC can use the emblem also as a protective device and therefore during hostilities and in times of armed conflict³³.

The circumstances in which the emblem should be used, who is entitled to wear it or where it should be placed or displayed, which size it should have in relation to which purpose are defined by IHL with the utmost precision in order to avoid and prevent any potential misuse. The risk that the emblem will be misused, especially in times of armed conflict, must be taken seriously into consideration and in this respect IHL contains specific rules regulating the misuse of the emblem and requires national legislation to prevent and repress such misuses³⁴.

4. *Misuse of the emblem* – Any use of the emblem, both in peacetime and in time of war, that is not specifically authorized constitutes misuse and it is prohibited by IHL.

²⁸ The study has been launched by the ICRC, in response to a request formulated in the Strategy for the Movement adopted by the Council of Delegates of the International Movement of the Red Cross and Red Crescent in 2001, aiming to ensure the respect of the emblem at all times and especially when used as a protective device in times of armed conflicts. The whole ‘the Emblem Study’ is available at <https://www.icrc.org/en/doc/assets/files/publications/icrc-001-4057.pdf>.

²⁹ See ‘the Emblem Study’, cit., p. 29.

³⁰ GC I, Art 44(4).

³¹ See M. Sassóli, *International Humanitarian Law*, cit., p. 246.

³² Available here <https://ihl-databases.icrc.org/en/ihl-treaties/gci-1949>.

³³ Updated ICRC Commentary GC I, para 2687.

³⁴ GC I, Art 54; GC II, Art 45; AP III, Art 6(1).

For the purpose of this paper, the term ‘misuse of the emblem’ encompasses all possible violations of the IHL rules governing the use of the emblem.

Misuse can be distinguished into three main categories: imitations, improper use and perfidious use³⁵. Imitation, means the use of a sign or a designation that by its shape and/or colour or title may be potentially confused with any of the recognized emblem or its name³⁶. In ‘the Emblem Study’, the authors stated that the criterion for deciding if a given mark constitutes an imitation should be whether the use of the mark could lead to a risk of confusion in the public mind between that mark and the emblem or its name³⁷.

Improper use entails both the use by persons or entities who are not entitled to use the emblem (e.g. pharmacies, commercial enterprises, NGOs, ordinary individuals etc.) or for purposes that are inconsistent with the fundamental principles of the Movement and also the use by entities and persons that are authorized to use the emblem but that use it in a manner which is inconsistent with IHL provisions failing to comply with the rules and restrictions on its use (e.g. the use of a large emblem by a National Society in times of armed conflict)³⁸.

Among the others, the perfidious use, however, is the most serious misuse of the emblem. In this situation the emblem is used during an armed conflict to protect combatants or military equipment when carrying out hostile acts. Citing Protocol I, in this case the emblem is misused for “inviting the confidence of an adversary to lead him to believe that he is entitled, or is obliged to accord protection...with intent to betray that confidence”³⁹. In this situation the emblem is therefore used to pretend the protected status of someone or something with the aim to kill, injure or capture an adversary. This is the typical situation when the parties of a conflict use the emblem to transport ammunitions and other weapons or to camouflage military objectives. When this is done willfully and causes the death or a serious injury to the body and health, the perfidious use of the emblem can amount to a grave breach of Protocol I, meaning a particularly serious violation of IHL that gives rise to specific obligations of repression for States⁴⁰.

As underlined by professor Antoine Bouvier, all misuses of the emblem during peace or war times, even isolated cases, may inevitably undermine the authority of the emblem and jeopardize the entire system of protection and consequently the protection of those entitled thereto⁴¹. It is therefore essential that when such misuses occur the States, the primary actors responsible to respect and implement the proper use of the emblem,

³⁵ See A. Bouvier, ‘*The Use of the Emblem*’, in A. Clapham, P. Gaeta, M. Sassòli, *The 1949 Geneva conventions: a commentary*, 2015, p. 873 f. For some examples see ‘How does law protect in war? – Casebook Online’, visit https://casebook.icrc.org/a_to_z/glossary/misuse-emblem.

³⁶ GC I, Art 53(1).

³⁷ M. Sassòli, *International Humanitarian Law*, cit., p. 247.

³⁸ GC I, Art 53(1); AP I, Art 38; AP II, Art 12.

³⁹ AP I, Art 37.

⁴⁰ See in particular, Art. 85 (3) (f) AP I; International Criminal Court (‘ICC’) Statute, Art 8(2)(b)(vii) and ICRC CIHL Database, Rule 156. For the definition of ‘grave breach’, see GCs, Common Arts 50/51/130/147; AP I, Arts 11(4), 85 and 86. It is important to underline that every grave breach is a war crime but the opposite is not true, in this respect see AP I, Art. 85 (5). On the obligation to prosecute grave breaches and war crimes see M. Sassòli, *International Humanitarian Law*, cit., p. 152 f. See also ‘the Emblem Study’, cit., p. 31.

⁴¹ See A. Bouvier, *Special aspects of the use*, cit., p. 440.

adopt recommendations for preventing and stopping these violations⁴². If States fail to take appropriate measures and to suppress misuse both during an armed conflict and peace time, the life of those entitled to use the distinctive emblem would be endangered and the protective value of the emblem would be inevitably spoiled⁴³.

5. *Conclusion* – The emblem embodies the identity and the spirit of the Movement and since its creation it very soon became essential in the application and implementation of IHL. It is key that the emblem continues to preserve and reinforce its protective value adapting and updating its use considering the modern challenges posed by recent and future conflicts⁴⁴. In this regard, one of the main challenges is the response provided by IHL to the digitalization of societies. Today more and more States and non-State actors are developing military cyber capabilities and cyber operations are becoming a reality in armed conflicts. The ICRC has warned on the impact that the use of modern technologies and, in particular, the widespread of cyber operations have on the lives of those affected by a conflict and tried to find a solution to minimize the potential human cost of such operations⁴⁵. Given that the protection of personal data together with their availability and integrity on systems in the digital space, is essential to assist and protect people in the real world, the ICRC has partnered with research institutions to explore the feasibility of the adoption of a ‘digital emblem’ that would work in the digital space. After two-year research and a consultation process the ICRC together with an international group of experts published a report addressing the benefits, risks and solutions associated to the adoption of such ‘digital emblem’⁴⁶. The report provides different technical solutions to adopt such emblem and addresses the possible ways forward for its feasible use in armed conflicts. As it is clearly stated by the ICRC itself, although particularly important, the publication of this report is only the first step among a series of future consultations that the ICRC should conduct with States and other stakeholders on developing a digital emblem that would be able to effectively protect the rights of the people affected by armed conflicts⁴⁷.

For over 150 years the emblem has been used a symbol of protection. The message behind its use is straightforward, those who wear it and the objects marked with it must be protected against harm. As we have seen the emblem continues to play a fundamental role also in ongoing conflicts and it is fundamental that it will retain its protective power

⁴² GC I, Art 54; GC II, Art 45; AP III, Art 6(1).

⁴³ See ‘the Emblem Study’, p. 281.

⁴⁴ Ibid, p. 9.

⁴⁵ At the beginning of 2022, the ICRC servers hosting personal data belonging to more than half a million people worldwide

people – detainees, unaccompanied minors, migrants – had been hacked, through a massive and highly sophisticated cyber operation. This put already vulnerable at even greater risk. For more information see <https://www.icrc.org/en/document/cyber-attack-icrc-what-we-know>.

⁴⁶ The report is available here <https://www.icrc.org/en/document/icrc-digital-emblems-report>.

⁴⁷ Ibid.

also in future conflicts⁴⁸. The form of armed conflicts is constantly changing and IHL must adapt to change⁴⁹. This must remain the case both offline and online.

Aprile 2024

⁴⁸ As underlined by A. Bouvier, *Special aspects of the use*, cit., p. 438, “the law of armed conflicts now depends largely on respect for the emblem and on the conditions in which it may legitimately be used”.

⁴⁹ *Ibid.*