

Reaffirmation and Development of International Humanitarian Law

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III. PRINCIPLES AND LAW

Further Accessions to the Geneva Conventions

During 1974 the Sultanate of Oman (by accession on 31 January 1974) and the Republic of Guinea-Bissau (by accession on 21 February 1974) became parties to the four Geneva Conventions of 1949.

The official notifications were received by the Swiss Federal Council on the dates mentioned.

These two further accessions to the 1949 Geneva Conventions bring the number of Parties up to 138.

Reaffirmation and Development of International Humanitarian Law

As in preceding years, the Legal Division concentrated in 1974 on work connected with the reaffirmation and development of international humanitarian law applicable in armed conflicts. The positive results of the preparatory work carried out by the ICRC since 1968 gave a decisive impulse to the undertaking as a whole and led the Swiss Government, as the government of the depositary State of the 1949 Geneva Conventions, to convene a Diplomatic Conference early in 1974.

Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law Applicable in Armed Conflicts (first session)

The Conference was held in Geneva from 20 February to 29 March 1974. It was presided by Mr. Pierre Graber, Vice-President of the Swiss Federal Council and Head of the Federal Political Department.

The Conference was attended by 129 governmental delegations. Liberation movements recognized by the regional intergovernmental organizations concerned were invited to participate fully in the discussions of the Conference and of its main Committees, without the right to vote. The League of Red Cross Societies, the

United Nations, regional intergovernmental organizations, numerous international, intergovernmental and non-governmental organizations were also present with observer status.

The Conference adopted as the basis for its discussions the draft Protocols additional to the Geneva Conventions of 12 August 1946 drafted by the ICRC with the co-operation of governmental and Red Cross experts. Under Article 33 of the Rules of Procedure, the ICRC experts associated in the work of the Conference presented the articles of the draft Protocols submitted to the Conference for consideration and answered delegates' questions regarding those drafts.

The Conference started with nineteen plenary sittings which dealt with questions relating to participation in the Conference, the organization of work and the approval of the rules of procedure. There followed a general discussion. Three main Committees were then entrusted with the consideration of the draft Protocols, the questions being apportioned as follows:

Committee I: Questions relating to the application of international humanitarian law in international and non-international armed conflicts; questions relating to the implementation of international humanitarian law and scrutiny of its application in an international armed conflict; fundamental guarantees for persons in the power of one of the parties to the conflict in a non-international armed conflict.

Committee I gave special attention to Article 1 of draft Protocol I, applicable in international armed conflicts. The Committee adopted an amendment to the effect that the peoples' fights against colonial domination, foreign occupation and racist régimes, in the exercise of their right of self-determination as laid down in particular in the Charter of the United Nations, should be regarded as international armed conflicts.

Committee II: Questions relating to the protection of the wounded, the sick and the shipwrecked in both types of armed conflict; civilian protection; relief action; identification and sign-indication of medical personnel, units and means of transport.

Committee II discussed at length questions of definition (with which the Geneva Conventions did not deal) and adopted an article

defining the wounded, the sick and the shipwrecked. The basic concept of respect for the wounded and the sick in all circumstances was also accepted.

Committee III: Questions relating to the protection of the civilian population and to methods and means of combat in both types of armed conflict.

Committee III adopted the basic rule of protection of the civilian population against the effects of hostilities, and the definition of the term 'civilian population'.

In addition, the Diplomatic Conference established an *ad hoc* Committee on Weapons to study from a humanitarian standpoint the question of the prohibition or limitation of the use of conventional weapons that may cause unnecessary suffering or have indiscriminate effects.

Owing mainly to the magnitude of the material with which it had to deal, the Diplomatic Conference suspended its work without having been able to complete it. As some real headway had been made, however, the delegations favoured a second session at which the Conference would pursue its work. At the final plenary sitting, the President of the Conference announced that the Swiss Government proposed to invite participants to a second session in 1975, which would simply continue the work, the Committees resuming their study of the draft Protocols at the point where it had been interrupted.

Preparation of the second session of the Diplomatic Conference

At the close of the first session of the Diplomatic Conference, the Legal Division undertook an exhaustive study of the results achieved and a thorough examination of all draft amendments and proposals put forward by delegations. It also explored the consequences which the provisions adopted in Committee would have on the two additional Protocols.

As some of the problems had not been given sufficient consideration at the preparatory stage, the Legal Division consulted a number of experts privately, particularly regarding penal problems.

Conference of Government Experts on the Use of Certain Conventional Weapons

Pursuant to the recommendation of the XXIInd International Conference of the Red Cross (Teheran, 1973), of the twenty-eighth General Assembly of the United Nations and of the Diplomatic Conference itself, the ICRC was led to hold a Conference of Government Experts on the Use of Certain Conventional Weapons in 1974. That Conference, to which the ICRC invited all governments and national liberation movements admitted to participation in the Diplomatic Conference, was held at Lucerne from 24 September to 18 October, in accordance with a programme established by the ICRC and approved by the *ad hoc* Committee of the Diplomatic Conference. The ICRC published a report on the work of the Conference in English, French and Spanish, for distribution to participants at the second session of the Diplomatic Conference. A provisional text had already been sent to governments and distributed to the members of the First Committee of the United Nations General Assembly.

Co-operation with the United Nations

In the context of its work on the reaffirmation and development of international humanitarian law, the ICRC attended the following United Nations meetings with observer status:

Commission on the Status of Women

The twenty-fifth session of the Commission on the Status of Women was held at United Nations headquarters, New York, from 14 January to 1 February 1974. The Commission's agenda included the question of the protection of women and children in emergency and armed conflict in the struggle for peace, self-determination, national liberation and independence, which was made the subject of a draft Declaration. This draft Declaration was adopted by 20 votes with 7 abstentions.

Twenty-ninth General Assembly of the United Nations

Under the heading "Napalm and Other Incendiary Weapons and All Aspects of Their Possible Use", the First Committee gave special attention to the work of the Diplomatic Conference on that

subject and to the report of the Conference of Government Experts convened by the ICRC at Lucerne. In resolution 3255 A (XXIX), the General Assembly took note with appreciation

of the expressed readiness of the International Committee of the Red Cross to convoke another Conference of Government Experts, which would receive and consider new information and focus on such conventional weapons as have been, or may become, the subject of proposed bans or restrictions of use and study the possibility, content and form of such proposed bans or restrictions.

Further, in operative paragraph 3 of that Resolution, the General Assembly invited

the Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law Applicable in Armed Conflicts to continue its consideration of the question of the use of napalm and other incendiary weapons, as well as other specific conventional weapons which may be deemed to cause unnecessary suffering or to have indiscriminate effects, and its search for agreement on possible rules prohibiting or restricting the use of such weapons and, in this context, also to consider the results of the first Conference of Government Experts and the programme of work which a second Conference of Government Experts might follow.

Another Resolution on the same subject, Resolution 3255 B (XXIX), the General Assembly condemned the use of napalm and other incendiary weapons in armed conflicts in circumstances where it may affect human beings or may cause damage to the environment and/or natural resources. It invited all Governments, the International Committee of the Red Cross, the specialized agencies and the other international organizations concerned to transmit to the Secretary-General all information about the use of napalm and other incendiary weapons in armed conflicts.

On the report of the Third Committee, the General Assembly adopted resolution 3220 (XXIX) on assistance and co-operation in accounting for persons who are missing or dead in armed conflicts. After calling upon parties to armed conflicts to take action to help locate and mark the graves of the dead, the General Assembly expressed appreciation of the ICRC's continuing efforts and called upon all parties to armed conflicts to co-operate with pro-

protecting Powers or their substitutes and with the ICRC in the matter. The Secretary-General was requested to bring the resolution to the attention of the Diplomatic Conference.

The Sixth Committee of the General Assembly (Legal Questions) dealt with all questions relating to the development of international humanitarian law. In resolution 3319 (XXIX), the General Assembly expressed its appreciation

to the Swiss Federal Council for convoking the second session of the Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law Applicable in Armed Conflicts in 1975 and to the International Committee of the Red Cross for its readiness to convoke in 1975 another Conference of Government Experts on the use of certain conventional weapons.

The General Assembly expressed the hope that the Diplomatic Conference might reach agreement on problems which were still in suspense and decided to include the subject in the agenda of its thirtieth session.

As can be seen, the General Assembly took a lively interest in the ICRC's work in the legal sphere. The aforementioned resolutions also show the close and trustful co-operation that has been established between the United Nations and the ICRC. ¹

Relations with other intergovernmental and non-governmental organizations

In connection with its preparations for the second session of the Diplomatic Conference, the ICRC took part in a large number of meetings on current problems of international humanitarian law. It maintained its contacts with the *Group of non-governmental organizations* responsible for studying such questions, and ICRC representatives had repeated occasion to take part in meetings of this working group when it engaged in the study of the draft Protocols and the preparation of new proposals concerning them.

The ICRC was also represented at the following meetings:
— *Round Table on Present Problems of Humanitarian Law*, organized by the International Institute of Humanitarian Law, which has its

¹ The full text of the United Nations resolutions is given in the January 1975 issue of the *International Review of the Red Cross*, pages 41 to 48.

seat at San Remo, Italy (6 to 9 September 1974). The purpose of the meeting, which was private, was to allow an exchange of views on the results of the first session of the Diplomatic Conference and to study some of the problems to be considered at the second session of the Conference. Some fifty experts from all parts of the world took part in the proceedings.

— *Centenary of the Brussels Declaration*: To commemorate the centenary of the 1874 Brussels Declaration concerning the laws and customs of war, the Committee for the Protection of Human Life in Armed Conflicts—a working group of the International Society of Penal Military Law and Law of War—held an international symposium on humanitarian law (Brussels, 12 to 14 December 1974) attended by about a hundred experts in their personal capacity. The theme of the symposium was “the concept of international armed conflict: new prospects”.

Documentation and Dissemination

Dissemination of Knowledge of Red Cross Principles and of the Geneva Conventions

Twenty-fifth anniversary of the signing of the Geneva Conventions: On the occasion of the 25th anniversary of the signing of the four Geneva Conventions of 12 August 1949,¹ the ICRC issued a message recalling their significance and essential role. The message was sent to all National Societies, which were invited to publicize it in the press, by radio and by television.

Draft resolution for the UNESCO General Conference: In co-operation with the Henry Dunant Institute, the ICRC prepared for the UNESCO General Conference (October/November 1974) a draft resolution on the dissemination of knowledge of the Geneva Conventions, repeating the gist of Resolution XII of the XXIInd Interna-

¹ Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, of August 12, 1949;

Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea, of August 12, 1949;

Geneva Convention relative to the Treatment of Prisoners of War, of August 12, 1949;

Geneva Convention relative to the Protection of Civilian Persons in Time of War, of August 12, 1949.