

## **Protection of civilian populations against the dangers of indiscriminate warfare**

*Mr. Frédéric Siordet, Vice-President of the ICRC, submitted the following report to the Council of Delegates at The Hague in September 1967:*

Resolution XXVIII is no doubt one of the most important of those adopted by the XXth International Conference of the Red Cross. It deals with the protection of civilian populations against the dangers of indiscriminate warfare.

Recognizing that indiscriminate warfare constitutes a danger to the civilian population and the future of civilization, the resolution “solemnly declares that

- all governments and other authorities responsible for action in armed conflicts should conform at least to the following principles:
- that the right of the parties to a conflict to adopt means of injuring the enemy is not unlimited;
  - that it is prohibited to launch attacks against the civilian populations as such;
  - that distinction must be made at all times between persons taking part in the hostilities and members of the civilian population to the effect that the latter be spared as much as possible;
  - that the general principles of the Law of War apply to nuclear and similar weapons.

In addition, Resolution XXVIII

expressly invites all governments who have not yet done so to accede to the Geneva Protocol of 1925 which prohibits the use of asphyxiating, poisonous, or other gases, all analogous liquids, materials or devices, and bacteriological methods of warfare.

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By proclaiming the four principles which belligerents should always observe, Resolution XXVIII does not create a new law. It is an official and unanimous assertion by the International Red Cross, including government delegations, of the permanent validity, in spite of their antiquity and many violations, of the rules of the law of war which have never been denounced.

In its operative section, the resolution sets the ICRC some rather heavy tasks. For instance, the Conference:

urges the ICRC to pursue the development of International Humanitarian Law in accordance with Resolution No. XIII of the XIXth International Conference of the Red Cross, with particular reference to the need for protecting the civilian population against the sufferings caused by indiscriminate warfare,

requests the ICRC to take into consideration all possible means and to take all appropriate steps, including the creation of a committee of experts, with a view to obtaining a rapid and practical solution of this problem.

Present day troubles in the world make the tasks assigned to the ICRC by the XXth Conference yet more difficult. For that reason the ICRC decided to consult some twenty experts on all continents representing the different currents of thought. Fifteen of them have given the Committee valuable advice on how Resolution No. XXVIII of the XXth Conference could be followed up.

Without going into the details of these consultations, I would mention the following points:

In the first place, Resolution XXVIII is a good step in the right direction and affirms valid principles of the law of nations. This is not enough however; we must seek a formula in which States explicitly recognize these principles and would therefore be more closely bound to them.

Secondly, it would seem that in present circumstances it is impossible for the majority of governments to reach an international agreement in this sphere. Such an agreement must however remain the eventual objective.

Until such an agreement is reached every opportunity must be seized to reiterate the principles expounded in Vienna, to have them reaffirmed and extended if possible. In this connection, it has generally been thought advisable as an interim measure to have

recourse to a declaration embodied in a resolution of the United Nations.

These are the conclusions which have induced the ICRC to send all governments parties to the 1949 Geneva Conventions and the Fourth Hague Convention of 1907, a memorandum dated May 19, 1967. All National Societies received a copy thereof in circular No. 468 of May 24 last. It was also published in the *International Review of the Red Cross*.<sup>1</sup> We shall merely quote two paragraphs:

In order for these principles to be fully operative, the International Committee urgently requests Governments to sanction them and, if need be, to develop them in an adequate instrument of international law. The International Committee is prepared to assist in drawing up such an instrument.

In addition, without awaiting the entry into force of this instrument and the possible achievement of an agreement between the Powers concerned for the formal prohibition of weapons of mass destruction, the International Committee invites the Governments to reaffirm, as of now, through any appropriate official manifestation, such as a resolution of the United Nations General Assembly, the value they attach to the principles cited above. Moreover these principles could henceforth be referred to in the instructions given to the armed forces.

The idea of a resolution of the UN General Assembly to confirm the Vienna principles received attention from several governments which have informed the ICRC that they would in principle be prepared to take the initiative by submitting a draft.

It is to be hoped that these efforts will achieve positive results. The ICRC would of course be pleased to give information to other governments to enable them to co-ordinate efforts with those of the governments which have already decided to act.

We may therefore hope that by the time the XXIst International Conference of the Red Cross is held some result will already have been obtained. However, even if the projects now in the wind come to fruition the problem of effective protection for civilian populations against the dangers of war will still have to be dealt with and the Red Cross efforts will be directed towards the conclusion of definite undertakings.

<sup>1</sup> June 1967.

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Similarly, in the field of the law and customs of war, efforts will have to be exerted to achieve precision, especially as most rules relating to the conduct of hostilities and resort to arms date back more than sixty years.

The ICRC has expressed its concern on this subject in an annex to the memorandum I mentioned earlier which describes the seriousness of the problem.

On July 26, 1966, the ICRC urged governments which have not yet acceded to the Geneva Protocol of 1925 to do so. It informed the U.N. Secretary-General of this step. Mr. Thant made it known to the members of the General Assembly which adopted a resolution confirming the prohibitions contained in the Protocol.

Such is the action taken so far by the ICRC in pursuance of Resolution No. XXVIII of the XXth International Conference. It intends to continue its efforts without respite and will be grateful for any suggestions which you may have to make for the implementation of this very important resolution. I need hardly say that it is and will be grateful for any approaches by National Societies to their governments in conformity with the penultimate paragraph of the Resolution which reads:

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requests all National Societies to intervene with their governments in order to obtain their collaboration for an early solution of this question and urges all governments to support the efforts of the International Red Cross in this respect.

We cannot hope to achieve worthwhile results unless the unanimity displayed at Vienna when Resolution XXVIII was adopted is translated into action.