

Conference on Humanitarian Law by S. Suckow, *The Review of the International Commission of Jurists, Geneva, 1975.*

... The work on the second Protocol has been going so well that one hesitates to point a finger and say that the "emperor has no clothes", but as discussion of the matter is now assured under the initiative of the Canadian and Philippine resolutions, it must be said that there is a real danger of the emergence of a well drafted Protocol which will then become an archive piece by the non-ratification of countries where it is most likely to find effect.

In this context there is something to be said, in this observer's view, for the Philippine approach of combining the provisions into a single Protocol. While in the hypothesis of two Protocols it would be relatively easy for a state having reservations on the second Protocol merely to ratify the first and take no action on the second, it might be more difficult for a state to refuse to ratify a single, combined Protocol and thus exclude itself from the benefits of the international protections.

However this may be, the real force behind an accepted protocol for non-international conflicts must be a realization among governments that methods that provoke a sense of outrage do not in fact produce beneficial results, nor do they frighten away their opponents. Experience over recent years tends to support the conclusion that such methods tend only to isolate the government using them and further embitter the conflict.

There is another aspect, what may be considered the aspect of reciprocity in non-international conflicts, which stems from the growing number of successful revolts and revolutions. A government and its supporters resorting to abusive tactics in fighting its internal enemies would not be well placed to argue for humane treatment for its members and adherents in the event of a change of government.

The work of the ad hoc committee on weapons causing unnecessary suffering has been understandably slow, considering the military issues at stake. What would be unfortunate, however, would be a confusion over the role of this Conference and that of the various disarmament bodies. The purpose of disarmament is to limit military potential in order to balance or restrict the war-making ability of states. It is aimed at avoiding war. This Conference presupposes the continued occurrence of war and seeks to limit unnecessary suffering caused by such wars.

To confound the two subjects would be to condemn humanity to suffer the consequences of indiscriminate weapons until such time as disarmament brings assured peace, which condition would by definition produce the "withering away" of humanitarian law...