

A PUBLICATION OF THE INTERNATIONAL COMMITTEE OF THE RED CROSS

*Under the title of Weapons that may Cause Unnecessary Suffering or have Indiscriminate Effects, the International Committee has published a summarized report on the work of a group of experts whom it convened in Geneva, this year, on the subject of modern weapons.*¹

At the second session, in 1972, of the Conference of Government Experts on the Reaffirmation and Development of International Humanitarian Law Applicable in Armed Conflicts, the experts of nineteen Governments submitted a written proposal suggesting that the ICRC should consult experts on the problem of the use of certain conventional weapons that may cause unnecessary suffering or have indiscriminate effects. In support of their proposal, the experts said, *inter alia*, that, in view of its importance and topical interest, this question had been the subject of sustained debate at the Conference meetings.

Within the last few years, several governmental and non-governmental bodies have been devoting their attention to an examination of the use of these weapons. At its XXth session held at Vienna in 1965, the International Conference of the Red Cross stated in its Resolution No. XXVIII that "...indiscriminate warfare constitutes a danger to the civilian population and the future of civilization" and that "the right of the parties to a conflict to adopt means of injuring the enemy is not unlimited".

Furthermore, the International Conference on Human Rights, held at Teheran in 1968, recognized the need "to ensure the better

¹ *Weapons that may Cause Unnecessary Suffering or have Indiscriminate Effects*, a 72-page book which can be obtained from the ICRC Documentation Service, 7 avenue de la Paix, 1211 Geneva, at 12 Swiss francs a copy.

protection of civilians, prisoners and combatants in all armed conflicts ” and “ to prohibit or limit the use of certain methods and means of warfare ”.

The General Assembly of the United Nations also affirmed, in its Resolution 2444 (XXIII), the principles contained in the two above-mentioned Resolutions.

In its report on the reaffirmation and development of the laws and customs applicable in armed conflicts, which it submitted to the XXIst International Conference of the Red Cross (Istanbul, 1969), the ICRC referred, in connection with the different fields in which international humanitarian law should be developed, to the “ prohibition of ‘ non-directed ’ weapons or weapons causing unnecessary suffering ”. The ICRC report came to the conclusion that “ belligerents should refrain from using weapons:

- of a nature to cause unnecessary suffering;
- which, on account of their imprecision or their effects, harmed civilian populations and combatants without distinction;
- whose consequences escaped from the control of those employing them, in space or time.”

The XXIst International Conference of the Red Cross requested the ICRC “ on the basis of its report to pursue actively its efforts in this regard ”.

In the field of modern weapons, the United Nations has already carried out significant work. In its Resolution 2852 (XXVI), the General Assembly asked the Secretary-General to prepare, in accordance with paragraph 126 of his report on respect for human rights in armed conflicts (A/8052), a report on napalm and other incendiary weapons and all aspects of their possible use. The Secretary-General followed the mandate given to him by submitting to the General Assembly at its twenty-seventh session a detailed report on this matter (A/8803).

Shortly afterwards, a private body, the Stockholm International Peace Research Institute (SIPRI), also published a report on napalm and other incendiary weapons. This report, which was released a few days after the UN Secretary-General’s, was described as an

“ interim report ”, and it is understood that a final version is to be published at the end of 1973. Unlike the UN Secretary-General’s report, the SIPRI interim report laid particular stress upon the legal and humanitarian aspects of the use of these weapons.

The present report, therefore, may be considered to form part of a series of studies undertaken by the United Nations and other institutions on the subject of weapons. The pressing nature of the problem itself and the fact that, at the present moment, it is not being considered by any international body, are among the reasons that have led the ICRC to carry out this particular study. The interest it arouses may be seen in the animated discussions and the numerous written proposals produced at the time when Article 30 (entitled “ Means of combat ”) of the draft Additional Protocol to the four Geneva Conventions of August 12, 1949, submitted by the ICRC, came up for examination at the second session of the Conference of Government Experts.

With a view to drawing up the present report, the ICRC invited experts from those countries which had drafted the proposal referred to above to meet at its Geneva headquarters. Some experts, nationals of other governments concerned, also took part. In addition, the ICRC invited the participation of the United Nations, the World Health Organization, the Special Committee on Disarmament of the Non-Governmental Organizations, and the Stockholm International Peace Research Institute. This was the basis upon which it was possible to convene a well-qualified working group comprising thirty-six experts from twenty countries, three experts from the United Nations, two from the World Health Organization, one from the NGO Special Committee on Disarmament and one from the Stockholm International Peace Research Institute.

This working group met in two sessions, the first during 26 February-2 March 1973, and the second during 12-15 June. During the first session, drafting assignments for the individual chapters of the report were distributed among the experts. The drafts that were subsequently submitted were edited at the ICRC and then considered by the working group during the second session. The amendments and revisions recommended by the experts at the second session were subsequently incorporated by the ICRC during its

editing of the final report. The ICRC wishes to express its appreciation to the World Health Organization for its assistance during the two editing processes.

The present report is purely documentary in character. It does not formulate any concrete proposals for the prohibition or limitation of the use of the weapons under consideration, although the ICRC and the experts alike hope that this may one day be possible.

The purpose of the report is to give a description of those weapons which might cause unnecessary suffering or have indiscriminate effects. The field of enquiry has therefore been circumscribed by these two criteria. Nuclear, chemical and biological weapons have not been considered to any substantial extent, for both the UN Secretary-General and the World Health Organization have published reports on chemical and biological weapons, and the UN Secretary-General has also published one on nuclear weapons. Although the UN Secretary-General has also issued a report on incendiary weapons, it was considered useful, in view of the recency of his report, to include an abstract of it.

The intention of the first two chapters of the report is to provide readers with a background to the subsequent chapters. Chapter I is devoted to a survey of the existing legal limitations regarding the use of specific weapons, and is intended to give readers an idea of the legal framework in which the problems are situated. The main provisions of conventional and customary international law, with special reference to those incorporated in the Hague Conventions of 1899 and 1907, are mentioned in this first chapter. Chapter II describes briefly all the major categories of weapon, and goes on to discuss, in broad terms, their military applications in relation to the concept of indiscriminateness. The chapter ends with an account of the medical and other problems involved in the measurement of degrees of suffering or injury.

The next five chapters constitute the main body of the report. In them, the relevant contemporary weapons and their effects on the human body are described. Chapter III deals with small-calibre single projectiles, such as those fired by rifles or machine-guns. Chapter IV describes explosive weapons of the blast and fragmentation types. Chapter V describes time-delay weapons, such as mines and booby-traps. Chapter VI deals with incendiary weapons, and

is an abstract of the UN Secretary-General's report on this subject.¹ Each of these four chapters ends with a summary of their salient features. Chapter VII speculates upon future weapon developments, and takes the laser as a specific example. The report closes with some brief "final remarks".

The ICRC expresses the hope that the present report will prove useful and stimulating. It is being distributed to all national Red Cross Societies, to all Governments parties to the Geneva Conventions, and to all interested non-governmental organizations. The report will also be available to anyone else wishing to consult it. It has been designed to contribute to the knowledge of all sections of the public, even those that are not particularly well-informed on the matters under consideration.

The ICRC, for its part, if the need were felt, would be prepared to continue inquiries and, for example, convene a conference of government experts in order to contribute to the promotion of relevant international humanitarian law.

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To give our readers a better idea of the contents of the Report now published by the ICRC, we list below the different chapters :

- CHAP. I. *Existing legal prohibitions or limitations regarding the use of specific weapons*
1. General principles
 - (a) Unnecessary suffering
 - (b) Indiscriminate effects
 2. Military Manuals and Regulations
 3. Implementation and international co-operation

¹ Report submitted to the twenty-seventh General Assembly (A/8803).

CHAP. II. *Principal categories of weapon, and the questions of indiscriminateness and degrees of suffering or injury*

1. The principal categories of weapon
 - Explosive and penetrating weapons
 - Incendiary weapons
 - Nuclear weapons
 - Biological weapons
 - Chemical weapons
2. Military classifications of weapons and the question of indiscriminateness
3. Problems in measuring degrees of injury and suffering experienced from war wounds
 - (a) Degree of pain from wounds
 - (b) Probability of death
 - (c) Degree of disability after injury

CHAP. III. *Small-calibre projectiles*

1. Historical background
2. Weapons for firing small-calibre projectiles
3. Military requirements and the design of small-calibre projectiles
4. Medical effects of small-calibre projectiles
5. Salient features of the chapter

CHAP. IV. *Blast and fragmentation weapons*

1. Blast weapons
2. Fragmentation weapons
3. Military applications of blast and fragmentation weapons
4. Medical effects of blast and fragmentation weapons
 - (a) Blast effects
 - (b) Fragmentation effects
5. Salient features of the chapter

CHAP. V. *Time-delay weapons*

1. Technical characteristics of time-delay weapons
 - Landmines
 - Aircraft, artillery and naval gun-delivered mines
 - Booby-traps
2. Military applications
3. Medical effects
4. Salient features of the chapter

CHAP. VI. *Incendiary weapons*

1. The different types of incendiary weapon
 - (a) Incendiary agents
 - (b) Incendiary munitions
2. Tactical applications
3. The use of incendiary weapons against strategic targets
4. Medical effects of incendiaries
5. Salient features of the chapter

CHAP. VII. *Potential weapon developments*

1. General trends
 2. Lasers
 - (a) Gas-dynamic lasers
 - (b) Electric-discharge lasers
 - (c) Chemical lasers
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