

DIPLOMATIC CONFERENCE

ON THE REAFFIRMATION AND DEVELOPMENT OF INTERNATIONAL HUMANITARIAN LAW APPLICABLE IN ARMED CONFLICTS

After two and a half months of work, the second session of the Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law Applicable in Armed Conflicts closed on 18 April 1975.

About 600 delegates from 121 countries took part. Nearly 500 meetings were held, including plenary sessions, meetings of committees, sub-committees, drafting committees, working parties, etc. Of the 140 articles constituting the two draft Protocols Additional to the Geneva Conventions of 1949, about half were adopted by the main Committees.

At the next to last plenary meeting, on 17 April, the Conference took note of the reports of the Committees.

The report of the *Ad hoc Committee* on Conventional Weapons was presented by its rapporteur, Mr. F. Kalshoven ((Netherlands). This committee, under the chairmanship of Mr. D. Garces (Colombia), considered the question of forbidding or limiting the use of certain categories of conventional weapons that may cause unnecessary suffering or have indiscriminate effects. In this connection, it took into consideration the report of the Conference of Government Experts held under the auspices of the ICRC at Lucerne from 24 September to 18 October 1974. The committee agreed that the ICRC should convoke a second Conference of Government Experts. This will take place at Lugano from 28 January to 26 February 1976.

The Conference then received the report of *Committee I*—General Provisions and Application—presented by the rapporteur, Mr. A.E. de

Icaza González (Mexico). This committee, under the chairmanship of Mr. E. Hambro (Norway), had adopted eleven articles of the draft Protocol I and eight articles of the draft Protocol II.

The articles approved in draft Protocol I (international armed conflicts) included six in Part I dealing with provisions for application, among which was Article 5, strengthening the system for the appointment of protecting powers and their substitutes.

They also included the five articles concerning execution which emphasize the role of the Red Cross and provide for exchanges of information on the measures of application taken by the High Contracting Parties.

The eight articles approved in draft Protocol II (non-international armed conflicts)—which break new ground in international humanitarian law—concern the scope of the Protocol and provide for humanitarian treatment of persons in the power of parties to a conflict, with regard both to fundamental guarantees and specific provisions applicable to persons deprived of liberty.

The report of *Committee III*, chaired by Mr. H. Sultan (Arab Republic of Egypt) was presented by the rapporteur, Mr. G. Aldrich (United States of America), who succeeded in that capacity Mr. R. Baxter, of the same country.

Committee III adopted fifteen articles of draft Protocol I and seven articles of draft Protocol II. The fundamental principles for protection of the civilian population in both international and non-international armed conflicts were adopted. They provide for the protection of the population and of civilian objects against indiscriminate attacks—such as area bombing—and forbid recourse to certain methods of warfare such as famine or the destruction of food resources necessary for survival. One of these articles, with certain reservations, forbids attacks against works or installations—such as dams, nuclear power plants, etc.—which, if damaged, would release forces dangerous for man. Lastly, a new provision designed to protect the natural environment was adopted.

With regard to draft Protocol I, applicable in international armed conflicts, the Committee also adopted provisions regulating methods and means of combat. These specify in particular that the parties to a conflict do not have an unlimited choice of methods and means of warfare, and that the use of weapons that may cause unnecessary suffering is forbidden.

The Conference also took note of the report of *Committee II*, presented by Mr. D. Maiga (Mali), rapporteur. That committee, under the chairmanship of Mr. S. E. Nahlik (Poland), adopted twenty articles in draft Protocol I and eight in draft Protocol II.

The articles in Protocol I provide general protection for wounded, sick and shipwrecked persons, whether military or civilian, on the territory of parties to a conflict, and for civilian medical and religious personnel. They provide protection as well, on the ground and in the air, for all medical units and means of transport, both military and civilian. The articles concerning air transport constitute a considerable improvement over the 1949 Geneva Conventions.

Three provisions deserve special mention, relating respectively to protection of the physical and moral integrity of persons who have fallen into the hands of the enemy; the general principle of medical protection and medical secrecy; and the forbidding of reprisals against protected persons and objects in international conflicts.

The draft Protocol II provisions adopted by Committee II corresponded in most cases to those laid down in Protocol I.

Several delegates expressed their opinions on the overall results achieved during the second session, emphasizing the co-operative atmosphere in which it had taken place and the progress achieved.

In its final meeting, under the chairmanship of Mr. Pierre Graber, President of the Swiss Confederation, the Conference adopted a resolution instructing the general secretariat to carry out preparatory work for the third session. Another resolution asked the Secretary-General to report to the Secretary-General of the United Nations on the results achieved with regard to the protection of journalists carrying out dangerous professional missions in zones of armed conflict, and to inform him of the Conference's intention to complete its work on that question during the next session.

On behalf of all delegations, Professor H. Sultan (Arab Republic of Egypt) expressed thanks to the Chairman of the Conference, the Swiss and Geneva authorities and the ICRC.

Mr. Graber made the following closing statement:

"The second session of the Conference is drawing to a close. For the past eleven weeks, you have been at work drawing up rules to reaffirm and

develop international humanitarian law applicable in armed conflicts. You have spared no effort in this Conference to create new standards of conduct. Thanks to your determination to succeed, and to the co-operative spirit which has continuously characterized your work, I am gratified, as your President, to be able to state that the second session of this Conference, on the whole, was definitely successful. It gives me pleasure to pay you this tribute. The calm atmosphere of the meeting rooms undoubtedly contributed to the effectiveness of your work. More important, in the course of your deliberations, I know that you never lost sight of the ultimate purpose of the Conference, the ideal toward which it was directed—to limit the evils of war; in the face of our inability to prevent war, to make it less blind, less implacable.

“This objective is still before us, and more pressing than ever. Armed conflicts, whether international or not, which are the subject of the draft Protocols examined by the Conference, still continue and are still attended by misery and destruction.

“For this reason, as President of the Conference, I should like to appeal to all the parties to the conflicts now taking place in the world, whatever the nature of those conflicts, to observe strictly the provisions of the Geneva Conventions for the protection of war victims, and also to take into account, henceforth, the additional rules which the Conference is in the process of establishing, especially those referring to the protection of civilian populations, upon which wide agreement has already been reached.

“While words may be incapable of changing destiny, respect for the principles of international humanitarian law can, by itself, alleviate suffering, provide better protection for the weak, and spare innocent lives.

“I should like in addition to express the hope that those who have thus far enjoyed the privilege of remaining outside such conflicts will provide generous contributions to the aid intended for all victims without distinction.”

* * *

Further articles will deal with the work of the Diplomatic Conference, the third session of which will take place in Geneva from 21 April to 11 June 1976.