

# M I S C E L L A N E O U S

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## **TWO UNITED NATIONS RESOLUTIONS OF DIRECT INTEREST TO THE ICRC**

At its twenty-eighth session in New York, from 18 September to 18 December 1973, the United Nations General Assembly considered several matters of direct interest to the ICRC. We quote below two of its resolutions; one concerns the use of napalm, other incendiary weapons and certain types of conventional weapon which cause avoidable suffering, the other relates to respect for human rights in armed conflicts. Both refer to the Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law Applicable in Armed Conflicts, which is scheduled to start in Geneva in February 1974.

### *RESOLUTION 3076 (XXVIII)*

#### **Napalm and other incendiary weapons and all aspects of their possible use**

The General Assembly,

*Recalling that, in resolution 2932 A (XXVII) of 29 November 1972, it commended the report of the Secretary-General entitled "Napalm and Other Incendiary Weapons and All Aspects of Their Possible Use" to the attention of all Governments and peoples and requested the Secretary-General to circulate the report to the Governments of Member States for their comments,*

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*Taking note of the comments submitted by Governments<sup>1</sup> and of the widespread wish that intergovernmental action should be taken with a view to reaching agreement on the prohibition or restriction of use of these weapons,*

*Emphasizing the need to consider new rules designed to afford better protection of civilians and civilian objects during armed conflicts,*

*Convinced that the widespread use of many weapons and the emergence of new methods of warfare that may cause unnecessary suffering or are indiscriminate call urgently for efforts by Governments to seek, through possible legal means, the prohibition or restriction of the use of such weapons and of indiscriminate and cruel methods of warfare and, if possible, through measures of disarmament, the elimination of specific weapons that are especially cruel or indiscriminate,*

*Conscious of the difficulties involved in these tasks and the need for factual bases for discussion,*

*Considering, as one such basis, in addition to the report of the Secretary-General entitled "Napalm and Other Incendiary Weapons and All Aspects of Their Possible Use", the extensive factual report elaborated by an international group of experts under the auspices of the International Committee of the Red Cross entitled "Weapons That May Cause Unnecessary Suffering or Have Indiscriminate Effects",<sup>2</sup> covering, inter alia, high-velocity projectiles, blast and fragmentation weapons, time-delay weapons and incendiary weapons, and endorsing the conclusions of the report that intergovernmental review and action regarding weapons of these kinds is called for,*

*Considering that prohibitions or restrictions of the use of such weapons should be examined without delay and that positive results in this regard are likely to facilitate substantive disarmament negotiations with a view to the elimination of production, stockpiling and proliferation of the weapons in question, which should be the ultimate objective,*

*Aware that a diplomatic conference will be convened at Geneva on the invitation of the Swiss Federal Council, with a first session envi-*

<sup>1</sup> A/9207 and Corr. 1.

<sup>2</sup> Geneva, 1973.

saged to be held from 20 February to 29 March 1974, for the purpose of reaffirming and developing the international humanitarian law applicable in armed conflicts,

Welcoming as a basis for discussion at that conference proposals elaborated by the International Committee of the Red Cross and aiming, inter alia, at a reaffirmation of the fundamental general principles of international law prohibiting the use of weapons which are likely to cause unnecessary suffering and means and methods of warfare which have indiscriminate effects,

Considering that the efficacy of these general principles could be further enhanced if rules were elaborated and generally accepted prohibiting or restricting the use of napalm and other incendiary weapons, as well as other specific conventional weapons which may cause unnecessary suffering or have indiscriminate effects,

Taking note of the invitation issued by the XXII<sup>nd</sup> International Conference of the Red Cross to the International Committee of the Red Cross to call in 1974 a conference of government experts to study in depth the question of prohibition or restriction of the use of conventional weapons which may cause unnecessary suffering or have indiscriminate effects and to transmit a report on the work of the conference to all Governments participating in the Diplomatic Conference with a view to assisting them in their further deliberations,

1. Invites the Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law Applicable in Armed Conflicts to consider—without prejudice to its examination of the draft protocols submitted to it by the International Committee of the Red Cross—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 to seek agreement on rules prohibiting or restricting the use of such weapons ;

2. Requests the Secretary-General, who has been invited to attend the Diplomatic Conference as an observer, to report to the General Assembly at its twenty-ninth session on aspects of the work of the Conference relevant to the present resolution.

RESOLUTION 3102 (XXVIII)

Respect for human rights in armed conflicts

The General Assembly,

Reaffirming *that only complete respect for the Charter of the United Nations and general and complete disarmament under effective international control can bring about full guarantees against armed conflicts and the suffering caused by such conflicts, and determined to continue all efforts to these ends,*

Conscious of the fact that armed conflicts continue to cause untold human suffering and material devastation,

Convinced that in all such conflicts rules designed to reduce the suffering as much as possible and to increase the protection of non-combatants and civilian objects are needed,

Reaffirming the urgent need to ensure full and effective application by all parties to armed conflicts of existing legal rules relating to such conflicts, in particular the Hague Conventions of 1899 and 1907,<sup>1</sup> the Geneva Protocol of 1925<sup>2</sup> and the Geneva Conventions of 1949,<sup>3</sup> and to supplement these rules by new ones which take into account the modern developments in methods and means of warfare and which are practicable,

Welcoming the convocation by the Swiss Federal Council of the first session of the diplomatic conference on the Reaffirmation and Development of International Humanitarian Law Applicable in Armed Conflicts, to be held at Geneva from 20 February to 29 March 1974, with a possible second session in 1975,

Welcoming as an excellent basis for discussion at this conference the draft Additional Protocols to the Geneva Conventions of 1949 prepared by the International Committee of the Red Cross after thorough consultations with government experts, particularly during conferences held at Geneva in 1971 and 1972,

<sup>1</sup> Carnegie Endowment for International Peace, *The Hague Conventions and Declarations of 1899 and 1907* (New York, Oxford University Press, 1915).

<sup>2</sup> League of Nations, *Treaty Series*, vol. XCIV, No. 2138, p. 65.

<sup>3</sup> United Nations, *Treaty Series*, vol. 75, Nos. 970-973.

Recalling the successive resolutions adopted in the preceding years by the United Nations relating to human rights in armed conflicts, in particular General Assembly resolutions 2852 (XXVI) and 2853 (XXVI) of 20 December 1971 and 3032 (XXVII) of 13 December 1972,

Noting resolution XIII adopted at Istanbul in 1969 by the twenty-first International Conference of the Red Cross <sup>4</sup> and the resolution on the reaffirmation and development of international humanitarian law adopted at Teheran in 1973 by the twenty-second International Conference of the Red Cross,<sup>5</sup>

Noting with appreciation the report of the Secretary-General on respect for human rights in armed conflicts,<sup>6</sup>

Recalling resolution 3058 (XXVIII) of 2 November 1973 in which the General Assembly has invited the Diplomatic Conference to submit its comments and advice regarding the draft articles on the protection of journalists engaged in dangerous missions in areas of armed conflict,

Recalling its resolution 3076 (XXVIII) of 6 December 1973 concerning napalm and other incendiary weapons and all aspects of their possible use as well as the resolution on the prohibition or restriction of use of certain weapons adopted by the twenty-second International Conference of the Red Cross in Teheran in 1973,<sup>7</sup> inviting the Diplomatic Conference to take up the question of rules on the prohibition or restriction of use of specific conventional weapons which may cause unnecessary suffering or have indiscriminate effects,

Welcoming, in this regard, the survey by the Secretary-General on existing rules of international law concerning the prohibition or restriction of use of specific weapons,<sup>8</sup>

1. Expresses its appreciation to the Swiss Federal Council for convoking in 1974 the Diplomatic Conference on the Reaffirmation and

<sup>4</sup> See A/7720, annex I, sect. D.

<sup>5</sup> See A/9123/Add.2, annex, sect. IV.

<sup>6</sup> A/9123 and Add.1-2.

<sup>7</sup> A/9123/Add.2, annex, sect. III.

<sup>8</sup> A/9215.

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*Development of International Humanitarian Law Applicable in Armed Conflicts and to the International Committee of the Red Cross for the extensive work it has performed in preparing the draft Additional Protocols to the Geneva Conventions of 1949;*

2. Urges that the national liberation movements recognized by the various regional intergovernmental organizations concerned be invited to participate in the Conference as observers, in accordance with the practice of the United Nations;

3. Urges all participants in the Diplomatic Conference to do their utmost to reach agreement on additional rules which may help to alleviate the suffering brought by armed conflicts and to protect non-combatants and civilian objects in such conflicts;

4. Calls upon all parties to armed conflicts to acknowledge and to comply with their obligations under the humanitarian instruments and to observe the international humanitarian rules which are applicable, in particular the Hague Conventions of 1899 and 1907, the Geneva Protocol of 1925 and the Geneva Conventions of 1949;

5. Urges that instruction concerning such rules be provided to armed forces and information concerning the same rules be given to civilians everywhere, with a view to securing their strict observance;

6. Requests again the Secretary-General to encourage the study and teaching of principles of international humanitarian rules applicable in armed conflicts;

7. Requests the Secretary-General to report to the General Assembly at its twenty-ninth session on relevant developments concerning human rights in armed conflicts, in particular on the proceedings and results of the 1974 session of the Diplomatic Conference;

8. Decides to include in the provisional agenda of its twenty-ninth session the item entitled " Respect for human rights in armed conflicts ".