

# INTERNATIONAL COMMITTEE OF THE RED CROSS

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## CONFERENCE OF RED CROSS EXPERTS

VIENNA — MARCH 1972

*From 20 to 24 March 1972, the second session of the Conference of Red Cross Experts on the Reaffirmation and Development of International Humanitarian Law applicable in Armed Conflicts was held in Vienna.<sup>1</sup> It had been convened by the International Committee of the Red Cross and took place in Vienna at the invitation of the Austrian Red Cross. Almost a hundred delegates represented the Red Cross and Red Crescent Societies of the Arab Republic of Egypt, Australia, Austria, Belgium, Burundi, Canada, Czechoslovakia, Denmark, Finland, France, Germany (Dem. Rep.), Germany (Fed. Rep.), Great Britain, Greece, Hungary, Indonesia, Ireland, Jordan, Korea (Democratic People's Republic), Korea (Republic), Lebanon, Liechtenstein, Netherlands, Norway, Philippines, Poland, Portugal, Romania, Saudi Arabia, Spain, Sweden, Switzerland, U.S.A., U.S.S.R., Vietnam (Republic) and Yugoslavia.*

*The opening ceremony took place in the ceremonial hall of the Hofburg, speeches being made by Dr. Rudolf Kirchschläger, Minister for Foreign Affairs, Dr. Hans Lauda, President of the Austrian Red Cross, and Mr. Marcel A. Naville, President of the ICRC. We give excerpts below, in addition to which we would mention that Mr. Naville expressed the International Committee's gratitude to the Austrian Government and to the Austrian Red Cross which had made a very considerable contribution to the organizing of the conference. He also thanked the National Societies represented by the many delegates, and the League of Red Cross Societies which also sent representatives.*

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<sup>1</sup> Plate.

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### **Mr. R. Kirchschräger, Minister for Foreign Affairs :**

... This conference seems to me particularly important as an attempt to ensure a wider dissemination of humanitarian ideas which nowadays are not yet or only inadequately recognized. This is why I consider it so striking that the Red Cross should endeavour to find ways and means of adapting the treaty principles essential to the application of international humanitarian law to present-day requirements, and thus as far as possible to fill the gaps which have appeared since the four Geneva Conventions were adopted in 1949...

... The Republic of Austria, as a neutral State in perpetuity, is happy to act as host to this Conference of Experts in Vienna. If there is a State whose moral and legal duty it is to help establish a more humane world, that is the neutral State. On behalf of the Austrian Government, I therefore extend a very cordial welcome to you as experts in the humanitarian field. Your activity is necessary because, in this world, foreign policy has on the whole not yet attained its final and most important objective: to be an absolute and pure policy of peace. I therefore regard it as one of the aims of Austrian foreign policy to support your efforts, your work and the aid you render mankind. I do not think this assistance should be confined to understanding your humanitarian action. May the whole world be convinced that "pacigerence" should replace belligerence and that there is no problem in the world that cannot be solved better by "pacigerence" than by belligerence...

... The Republic of Austria endeavours, as far as it can, to co-operate in the settlement of conflicts. It also approved a resolution of the twenty-fifth General Assembly of the United Nations, in 1970, calling upon all parties to any armed conflict to comply with the terms and provisions of the Geneva Convention relative to the Treatment of Prisoners of War, which resolution endorsed the continuing efforts of the International Committee of the Red Cross to secure the effective application of that Convention.

The unspeakable suffering entailed by fighting in territories at war should give rise to more widespread international assistance. It calls not only for a more liberal interpretation, but for a broader application of the Geneva Conventions, whose sole purpose is to

help people in a thoroughly impartial manner and, in particular, to protect women and children.

The idea and the purpose of the Red Cross are simple, and in that very simplicity lies their greatness. A task that is worth shouldering is not merely that of recognizing and prizing them, but of putting them into practice. May the efforts of the Red Cross receive the support they need, at international level and in the community of nations as a whole.

**Dr. H. von Lauda, President of the Austrian Red Cross:**

...For the second time in a few years, the Austrian Red Cross has the honour to act as host to a Conference of the International Red Cross. In 1965, Austria had the privilege of organizing the XXth International Conference of the Red Cross. Today we receive experts from thirty-six National Red Cross Societies to discuss the development and reaffirmation of international humanitarian law.

While, in its essential aspects, the XXth International Conference of the Red Cross differs from this conference of experts, I am convinced that there is an immediate link between the two gatherings. In 1965, our essential task was to guard against the rift which had threatened the International Red Cross ever since the XIXth International Conference of the Red Cross, held in New Delhi in 1957, and to prevent the stagnation of international humanitarian law which had set in as far back as 1949. Today we can say that both those aims were achieved in Vienna. Despite differences of opinion, we succeeded in creating an atmosphere of co-operation, as manifest in the forty resolutions adopted by the Conference. It has, in fact, already been possible to put into practice many of the ideas summarized in those resolutions. I venture to remind you that the basic principles of the Red Cross, proclaimed as the "Vienna Declaration", are already firmly rooted in the world conscience. We realize, of course, that in 1965 the foundations alone were laid in Vienna, and that the fulfilment of those ideas still calls for much effort. The Conference of Experts convened in Vienna by the International Committee of the Red Cross is in itself an effort to find a solution to the problems that still exist.

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Basing itself on the fundamental resolution on measures for the protection of civilian populations which was adopted at the Vienna Conference, the XXIst International Conference of the Red Cross, in Istanbul in 1969, was also concerned about how international humanitarian law could be developed. Resolution XIII called upon the International Committee of the Red Cross to draw up proposals and submit them to governments.

The International Committee of the Red Cross is carrying out that mission in co-operation with National Red Cross Societies, and that is why it invited you to take part in a conference at The Hague last year, and to come to Vienna this year. The results of these conferences should contribute to facilitating the task of the International Committee of the Red Cross.

The fact that the two draft additional protocols to the four Geneva Conventions can now be submitted to the Red Cross experts as working documents indicates the extent to which the work underlying the adaptation of existing international law to changing war techniques and political conditions throughout the world has advanced.

So long as we have no means of preventing war, the development of international humanitarian law must be a special mission for the Red Cross. We must admit that international law has undergone profound changes over the past decade. In the era of atomic weapons, the aim of the humanitarian rules of international law is not only to relieve the sufferings of war victims, but to create conditions for the survival of mankind. With that aim, your task is a particularly important one. . . .

### **Mr. M. A. Naville, President of the International Committee of the Red Cross:**

. . . The XXth International Conference of the Red Cross, which was held in Vienna in 1965 and conducted by Dr. von Lauda with competence and courtesy, adopted a formal resolution, which we call the Vienna Declaration, relative to the protection of civilian populations against the dangers of indiscriminate warfare, the first result of our efforts in that field.

In that same Resolution XXVIII, the Conference urged the ICRC to pursue the development of international humanitarian law, and on the day when the Vienna Declaration was adopted, those of us who were present at that memorable meeting realized that the time to re-state humanitarian law was close at hand. We had a first vision of the plan of action which has today brought us together: to draw up for submission to States a number of proposals not designed to recast the Geneva Conventions, but to explain and complete them as regards some important points. The success achieved in Vienna, in a specific sector, encouraged a resolute step forward in that direction and was a good omen for the future.

The work has so far advanced considerably. The ICRC first submitted its plan and its hopes to the XXIst International Conference of the Red Cross, held in Istanbul in 1969. Then, strengthened by the support and authority of that high assembly, it prepared a considerable documentation which in the first place was submitted to the Red Cross experts gathered at The Hague last year, and subsequently to the Conference of Government Experts, convened in Geneva in May 1971, which assembled delegates from some forty countries. While that Conference allowed an appreciable step forward, it was unable to deal with its whole programme, and that is why a second session, which this time is open to all countries, is being convened in Geneva this spring. Like last year, it seemed necessary, in the first place, to call a meeting of experts of National Red Cross Societies, all of which have been invited to take part in this meeting. And that is the reason why we are here.

I might add that, after the first session of government experts, the ICRC held a series of consultations with experts from different countries, in Geneva and elsewhere. We found their advice invaluable in drawing up the draft protocols.

In addition, the ICRC called a meeting, held in Geneva in November 1971, of representatives of the non-governmental organizations which for many years have taken an unfailing interest in the work done in the legal field. The results of that Conference and the recommendations which it formulated will also be submitted to the forthcoming session of government experts.

Lastly, at earlier meetings the wish was expressed that countries

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which had recently achieved independence should be more closely associated in that task. The ICRC therefore sent two missions to Africa. They went to a number of capitals and contacted the authorities of those countries with a view to awakening their interest in the joint cause. It is to be hoped that following these missions more African countries will send experts to the second session of experts.

Again, at a meeting of Red Cross and Red Crescent Societies in Arabic-speaking countries held in Baghdad early this month, ICRC representatives had an opportunity to draw the attention of those Societies, and through them that of their Governments, to our work and to the meeting to be held in May.

Now, you have before you what is, so to speak, the complete text of the two draft Protocols which the ICRC has been able to draw up. They comprise the provisions intended to supplement, on the one hand, the Geneva Conventions as a whole, in cases of international conflict, and, on the other, Article 3 common to those Conventions, relative to armed conflicts not of an international character. We have considered it advisable to concentrate the subject matter in two documents rather than submit a series of separate protocols. Yet the different fields are dealt with in distinct chapters, so that the two drafts could be split up, if the States preferred it that way, into as many independent protocols as there are chapters.

Let us now consider the broad outline of the new rules to be established. First of all, in the field of *the wounded and the sick*, which the Red Cross has always had so close at heart, two chapters have already been approved by experts: their purpose is to afford all civilian medical personnel, so long as it is under government supervision, the protection to which it is legally entitled and which it still lacks. It will henceforth be possible to set up in every country a civilian medical service entitled to display the red cross emblem, or to merge military and civilian health services.

A further chapter refers to medical transport. By perfecting technical marking systems it should be possible to recreate a medical flying corps immune from attack, and this, too, will call for a new set of rules.

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Photo Schikola, Vienna

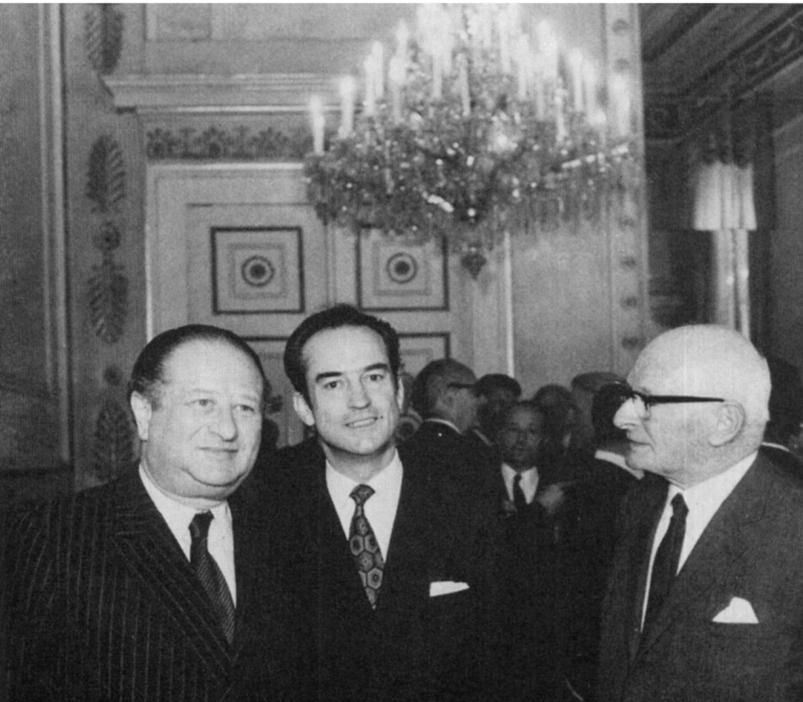
Opening meeting: address by the President of the ICRC.



One of the sessions.

**Vienna: The Conference of Red Cross Experts.**

**At a reception: *from left to right*, the Austrian Federal Chancellor, the President of the ICRC and the President of the Austrian Red Cross.**



A matter which is at the very core of the development of humanitarian law is *the protection of the civilian population* against the dangers of modern warfare. The Fourth Geneva Convention, which was finally concluded in 1949 for the benefit of civilians, protects them only against arbitrary action by the enemy authority and not against certain methods of warfare, particularly bombing. It should nevertheless be possible for the Powers to accept rules under which civilians would be spared. In this respect, our drafts make a clearer distinction between the civilian population and the military. They call on belligerents to adopt certain precautions and safeguards for the benefit of non-combatants.

An equally important and sensitive problem is that of protecting the human person in *conflicts not of an international character*. Since 1949, the Geneva Conventions have contained a common Article 3 which applies to these cases and which has already rendered great service. But this is only a first step in the right direction, and experience has shown its shortcomings. There is an imperative need to adapt it to present needs: that is the aim of the second draft Protocol which we are submitting to you, a kind of miniature Convention but consisting of minimum, moderate and realistic provisions which any State can accept without thereby being unable to ensure the security of its population.

I cannot develop all the subjects on our present agenda and shall therefore confine myself to mentioning once more the problem of *guerrilla warfare*, a form of combat that in our present-day era has assumed such proportions that it can no longer be ignored. It arises, above all, where there is a marked imbalance between the opposing forces: one of the parties then tries to offset its weakness by having recourse to an underground struggle and even terrorism, in order to produce an atmosphere of insecurity. The opponent, too, is often inclined to make ill-use of the means of repression. The population, dragged this way and that, is sometimes involved in the confrontation. It is certainly the first victim. Is it not possible to provide minimum rules which both parties should observe in order to ensure minimum protection for disarmed combatants, and particularly for non-combatants ?

Lastly, there is a point of special interest to National Red Cross Societies and which deserves to be carefully studied, and that is

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the role which the Societies are to play in developing and spreading knowledge of humanitarian law. A fine field of action thus lies open before them. A number of leaders of National Societies have imparted their very interesting ideas. We welcome them because, although the Conventions ensure that a great many lives are saved, they can do so only if the Conventions are known to those who are to apply them.

This is the programme and these are the documents on which you will be expected to pronounce during the coming few days, before the second session of government experts meets on 3 May. We are convinced that that session will approve these texts and that we shall be able to submit them in the not so distant future to an assembly of plenipotentiaries which alone has the power to endow them with the force of law . . .

*During the discussions there was unanimous approval of the draft Protocols drawn up by the ICRC with a view to supplementing the 1949 Geneva Conventions and to be submitted to the second session of the Conference of Government Experts which will be held next May in Geneva.*

*The experts were interested particularly in matters directly affecting Red Cross Societies, such as medical transport, the protection of civilian medical personnel, the use of the red cross emblem and the protection of civilian medical establishments. Measures for the safeguard of the population against the dangers arising from hostilities were also discussed, the predominating topics being the distinction between military objectives and civilian objects, respect for civilians and civilian property, and reprisals.*

*The relief which Red Cross Societies might be called upon to provide for conflict victims was a question which received the experts' full attention, as did the role of National Societies in the development and propagation of international humanitarian law. National Societies can make a worthwhile contribution to the dissemination of the humanitarian principles of the Geneva Conventions among the public, particularly among youth. They can also arouse greater interest in those principles in such specialized circles as universities and the medical profession. The efforts of the Red Cross Societies should also*

*be directed towards governments, in order to maintain liaison and interest in these questions.*

*Throughout the proceedings the experts displayed keen interest in the subjects discussed, and many suggestions were put forward for submission to the second session of the Conference of Government Experts.*

*The Conference had been extremely well organized by the Austrian Red Cross, which earned the gratitude of participants for the cordial welcome extended to them and which they would long remember.*

*Whilst in Vienna, the delegates of the ICRC, the League, and the National Societies were received by Mr. Bruno Kreisky, the Austrian Federal Chancellor, Mr. Hans Bock, Vice-Burgomaster of Vienna, and Mr. Andreas Maurer, Governor of Lower Austria.*