

Norway and the 1977 Additional Protocols to the 1949 Geneva Conventions

by Bjørn Egge

Norway took an active part in the discussions which led to the 1977 Additional Protocols. The Diplomatic Conference on the Reaffirmation and the Development of International Humanitarian Law Applicable in Armed Conflicts (Geneva, 1974-1977) as well as the meetings of experts which preceded it were attended by numerous representatives from Norway.

The outcome of the Diplomatic Conference was very carefully scrutinized by three different Ministries—the Ministry of Defence, the Ministry of Justice and the Ministry of Foreign Affairs—before being submitted to the National Assembly of Norway (the *Storting*).

The International Relations Committee of the *Storting* put forward a proposal to the plenary session of this Assembly. The Right Honourable Mrs. Grethe Vaernø presented the proposal and pointed out the importance of ratifying an international treaty which would at least bring the hope of attenuating the horrors of war.

Mrs. Vaernø emphasized the fact that the two Protocols implied extending the essential aspects of the Law of War. Greater protection, she argued, would be given to the civilian population in armed conflicts and the right of participants in national liberation wars would be recognized.

On 23 November 1981 the motion to ratify the Protocols was adopted by the plenary session of the National Assembly. No debate followed. Ratification was confirmed by the King's Council on 27 November 1981.

Norway was thus the first NATO country to ratify the Protocols and was soon followed by Denmark and, later on, Belgium.

Norwegian official authorities are very favourably disposed towards disseminating the rules and regulations of the 1949 Geneva Conventions and the 1977 Additional Protocols. However, a formal advisory commis-

sion to ensure the implementation of the internationally legally binding provisions of the Protocols has still to be established. The Norwegian Red Cross very much wishes to follow the good example set by Denmark and Sweden in this connection.

From the Norwegian Red Cross point of view, the Additional Protocols represent a tremendous advance in international humanitarian law. The rapid development of weaponry technology brings with it new methods of warfare. The Protocols have managed to update the 1949 Geneva Conventions to the 1970s.

However, this rapid development would seem slowly to have overtaken the provisions in the present Protocols and render it necessary for a new round of discussions. It appears that sooner or later a permanent commission will be necessary to keep abreast of events in the technological arms race which becomes ever more inhuman.

In the realm of armed conflict a long-term prospective is called for. To protect the individual human being against the worst horrors of war it is of paramount importance never to relax in the struggle against ways and means of warfare which cause unnecessary suffering and which strike indiscriminately. The long way from blind slaughter to a more restrained use of armed violence can be achieved only through a never tiring conscious effort to make weapons and their use less indiscriminate and constantly less necessary.

It seems almost to be a law of nature that States insist on possessing a physical deterrent against armed aggression. This physical force should, however, be of a defensive nature and should only be used in defence of their own territory. When used in this capacity, the weapons should only be used against military targets and applied only in situations of absolute necessity. This process should be promoted as a permanent procedure and the Additional Protocols are a good step in this right direction.

The relevance of the provisions of the Protocols for Norway can easily be understood against the background of recent history. During the Second World War, Norway experienced severe violation of international law and also suffered from the lack of legal provisions. Consequently, the articles on the protection of the civilian population rank high in our estimation.

With our experience of the Resistance Movement against the occupying forces in Norway we feel it absolutely essential that the Additional Protocols now provide for the legal rights of members of national liberation forces.

The provisions which outlaw mercenaries who take part in armed conflicts only for their own benefit are also important. It is to be hoped that these provisions will deter the illegal recruitment of adventurers.

The ratification of the Protocols has meant that Article 108 of the Norwegian Penal Code has had to be amended. The amendment provides a legal basis for prosecuting and punishing those who have committed criminal offences by violating the provisions of the Protocol. This is an extension of the legal instruments in the 1949 Geneva Conventions.

In order to secure ratification of the Protocols, the Norwegian Red Cross played an active role *vis-à-vis* the official authorities concerned. The Norwegian Red Cross repeatedly sent recommendations to the various Ministries urging that the process of ratification be speeded up.

Through the media, the Norwegian Red Cross gradually prepared public opinion so that the public at large would support ratification. Press conferences were held and articles written in newspapers and relevant professional periodicals.

The Norwegian Red Cross has also been instrumental in having a knowledge of the Protocols included in the curriculae of military schools and in the training of conscripts for the armed forces in Norway. This also applies to the Norwegian contingents of the UN Peace-Keeping Force in the Middle East and in other parts of the world where Norway has been requested to support the UN.

As a follow-up to the Norwegian Red Cross initiative, a course lasting one full week on the 1949 Geneva Conventions and the 1977 Additional Protocols is being conducted by the Norwegian armed forces for military legal experts and senior officers.

The appropriate departments in the Secretariat of the Norwegian Red Cross maintain close contact with Norwegian Military Academies and lend them information material for their courses.

In conclusion, Norway's record as regards the 1977 Additional Protocols is fairly good.

However doubts still linger in the minds of some representatives of the official authorities. In the hypothetical case that Norway should be attacked by a State which has not ratified the Protocols, Norway would still be bound by their provisions. Likewise, problems could arise if Norway accepted military assistance from a State which had not ratified the Protocols.

We hope, however, that this hypothetical situation will never materialize. More and more States are ratifying the Protocols and we are convinced that, in itself, this process has a restraining effect on the will to use arms in order to achieve political aims.

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