

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

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## RESPECT OF HUMAN RIGHTS IN TIME OF ARMED CONFLICT

### An Important Resolution by the General Assembly of the United Nations

Readers of *International Review* are informed of the resolutions adopted in 1968 and 1969 by the U.N. General Assembly on this important subject.<sup>1</sup>

In 1969 the General Assembly requested the Secretary-General to continue his studies and submit a further report. That important document [A/8052) was circulated to the delegations at the General Assembly at the beginning of October 1970 and, in several meetings, starting on 4 November, was examined by the Third Commission of the Assembly.

The General Assembly adopted five resolutions:

The first concerned the plight of journalists undertaking dangerous assignments in combat zones.

The second was more general in nature; *inter alia*, it gave a reminder that all States should avoid starting aggression and armed conflict, consistent with the United Nations Charter, and it recognized the need to draw up international instruments to protect civilian population and certain categories of combatants.

The aim of the third was to lay down basic principles for the protection of civilian population in time of armed conflict.

The subjects of the fourth were: treatment of prisoners of war; repatriation of seriously wounded or sick prisoners; repatriation or internment in a neutral country of able-bodied prisoners after long captivity.

The fifth resolution is quoted below. It lays down directives for the continuation of work and of co-operation between the U.N.

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<sup>1</sup> See *International Review* September 1968 and March 1969.

Secretary-General and the Red Cross. It was adopted by 111 votes, with four abstentions.

The International Committee of the Red Cross was represented during the sittings of the Third Commission by Mr. C. Pilloud, Director of the Department of Principles and Law, and by Mr. A. D. Micheli, delegate to international organizations. They were available for consultation by the Secretary-General and his staff, as well as by delegations.

Speakers taking the floor at the meetings of the Commission showed great esteem for Red Cross work in the realm of humanitarian law and welcomed the effective UN-ICRC co-operation.

The Third Commission's resolutions were approved by the Plenary Assembly on 9 December. The discussions which led to the adoption of these resolutions were of particular interest for the Red Cross and, before quoting the fifth resolution mentioned above, we believe it will be useful to give some extracts of the Third Commission's report to the plenum (doc. A/8178). (*Ed.*)

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“7. The members of the Committee fully subscribed to the statement contained in the preamble to resolution XXIII of the International Conference on Human Rights that peace was the underlying condition for the full observance of human rights and war was their negation. They expressed the conviction that the principal concern of the United Nations and of the States members of the international community should continue to be to prevent armed conflicts from breaking out, which was an essential prerequisite for the effective protection of human rights. However, inasmuch as resort to armed violence had regrettably not been eliminated, and wars and armed conflicts of various types continued to erupt and to plague the world, it was agreed in the Committee that it was imperative that, in every armed conflict, unrelenting efforts to put an end to it as soon as possible should be pursued in conjunction with national and international measures to limit as far as possible unnecessary sufferings of human beings while the conflict lasted. The Committee recognized that, given the horrors and the cruelty inherent in armed confrontations, the endeavour to minimize their destructive effect

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on human rights through the application in all armed conflicts of international humanitarian rules assumed paramount importance.

8. There was general agreement in the Committee that the two reports prepared by the Secretary-General (A/7720 and A/8052) were of great significance and value in that they contained a clear analysis of the issues involved and a wealth of relevant data and information, as well as interesting and sound ideas and suggestions which, as a whole, represented an important contribution to the study of the subject to which they were devoted and which would greatly assist in the task of strengthening respect for human rights in all armed conflicts.

9. All members of the Committee expressed satisfaction at the close consultation and the fruitful co-operation between the Secretary-General of the United Nations and the International Committee of the Red Cross in carrying out the activities which each side was mandated to pursue within the framework of the common international effort to enhance the protection of human rights in all armed conflicts through the more effective application of existing humanitarian rules or, where appropriate, the formulation of new ones. It was stressed that such harmonious contacts and relations should be maintained in the future. In this connexion, the members of the Committee paid tribute to the International Committee of the Red Cross for its important and pioneering role through the decades in the development and codification of the existing body of humanitarian law.

10. During the discussion in the Committee speakers reaffirmed the premises and objectives of resolution XXIII of the International Conference on Human Rights and General Assembly resolutions 2444 (XXIII) and 2597 (XXIV), including, in particular, recognition of the necessity of applying basic humanitarian principles in all armed conflicts, and acknowledgement of the need to continue, in an appropriate manner, the studies and activities initiated by those resolutions. In this connexion, the general opinion was that the tasks laid down in the aforementioned resolutions should be pursued with caution and deliberate speed, in full awareness of what the reports of the Secretary-General had vividly illustrated to be the importance, difficulty and complexity of the

subject matter, of the desirability of preserving the exclusively humanitarian character of the endeavour, and of the avoidance of duplication of work. Accordingly, in terms of the order and procedures to which future activities should conform, a generally acceptable view in the Committee was that full advantage should be taken of the work expected to be accomplished by the committee of governmental experts which the International Committee of the Red Cross planned to convene in May/June 1971. This committee of governmental experts would examine the various aspects of the question of reaffirming and developing humanitarian law and the problems involved. Members of the Committee favoured making available to the committee of governmental experts the two reports of the Secretary-General and the records of the relevant discussions and decisions of United Nations organs, for appropriate consideration. By subsequently transmitting to the General Assembly, if possible, at its twenty-sixth session, the results of the deliberations of that committee and other pertinent activities of the Red Cross, it was thought that a pattern of efficient and mutually beneficial consultation would be established. According to certain representatives this pattern would eventually enable the United Nations to decide as to what action to take on the question so as to render the best service to the objective of respect for human rights in armed conflicts, which was shared by the United Nations and the International Committee of the Red Cross. Meanwhile, Governments should be invited to comment on the two reports of the Secretary-General, and to communicate their observations to the General Assembly. Furthermore, the Secretary-General should be requested to follow relevant developments in the light of his continuing study and examination of the question.

11. There was concurrence in the Committee with the conclusion, stated in paragraph 14 of the second report of the Secretary-General (A/8052), that the text of the four Geneva Conventions of 1949 should, as far as possible, remain untouched and that nothing should be done to cast doubt on their validity and binding character. It was agreed that these Conventions contained valuable provisions and procedures which had been ratified by a very large number of States. They should, however, be both better applied and be adapted to developments in the methods used in armed conflicts

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since 1949. One of the basic objectives of United Nations efforts would therefore appear to be strengthening the impact of the Geneva Conventions, encouraging their full application and assisting in making their provisions better known and more efficacious in order that they might afford more effective protection to those whom they were designed to benefit.

12. At the same time it was recognized that, because of the new forms sometimes taken by modern armed conflict, the existing instruments showed certain inadequacies and gaps which the international community should endeavour to remedy, preferably through the elaboration of instruments which would be legally binding and which, in the opinion of some delegations, should be open for ratification on the basis of the principle of universality.”

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RESOLUTION 2677 (XXV)

**Respect for human rights in armed conflicts**

The General Assembly,

Determined to continue all efforts to eliminate the threat or use of force in international relations, in conformity with the Charter of the United Nations, and to bring about general and complete disarmament under effective international control,

Reaffirming its desire to secure the full observance of human rights applicable in all armed conflicts pending the earliest possible termination of such conflicts,

Convinced of the continuing value of existing humanitarian rules relating to armed conflicts, in particular the Hague Conventions of 1899 and 1907, the Geneva Protocol of 1925 and the Geneva Conventions of 1949,

Realizing, however, that because existing humanitarian rules do not adequately meet all contemporary situations of armed conflict it is necessary to develop the substance of these rules and procedures for their implementation,

Reaffirming the principles contained in resolution XXIII adopted by the International Conference on Human Rights, held at Teheran in 1968, and in General Assembly resolutions 2444 (XXIII) of 19 December 1968 and 2597 (XXIV) of 16 December 1969,

Aware of the importance and complexity of the tasks undertaken in pursuance of these resolutions, which require the continuing attention and concern of the United Nations, the International Committee of the Red Cross and the international community as a whole,

Noting with appreciation the two reports of the Secretary-General on respect for human rights in armed conflicts,

Recalling resolution XIII adopted unanimously at the twenty-first International Conference of the Red Cross, held at Istanbul in 1969, concerning the reaffirmation and development of the laws and customs applicable in armed conflicts,

Welcoming the decision of the International Committee of the Red Cross to convene at Geneva, from 24 May to 12 June 1971, a conference on the reaffirmation and development of international humanitarian law applicable to armed conflicts, to be attended by government experts,

Believing that one or more plenipotentiary diplomatic conferences of States parties to the Geneva Conventions and other interested States might be convened at an appropriate time, after due preparation, in order to adopt international legal instruments for the reaffirmation and development of humanitarian law applicable to armed conflict,

Considering that the effective implementation of humanitarian rules relating to armed conflicts can best be attained if those rules are laid down in widely accepted agreements,

Emphasizing the importance of continued close collaboration between the United Nations and the International Committee of the Red Cross,

1. Calls upon all parties to any armed conflict to observe the rules laid down in the Hague Conventions of 1899 and 1907, the Geneva Protocol of 1925, the Geneva Conventions of 1949 and other humanitarian rules applicable in armed conflicts, and invites those States which have not yet done so to adhere to those Conventions;

2. Expresses the hope that the conference of government experts to be convened in 1971 by the International Committee of the Red Cross

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*will consider further what development is required in existing humanitarian laws applicable to armed conflicts and that it will make specific recommendations in this respect for consideration by Governments ;*

### 3. Requests the Secretary-General :

*(a) To invite early comments by Governments on his reports ;*

*(b) To transmit his reports and the comments of Governments thereon, together with the records of relevant discussions and resolutions of the General Assembly, the Economic and Social Council and the Commission on Human Rights, to the International Committee of the Red Cross for consideration, as appropriate, by the conference of government experts ;*

*(c) To present the comments received to the General Assembly at its twenty-sixth session and to report at that session on the results of the conference of government experts to be convened by the International Committee of the Red Cross and on any other relevant developments ;*

4. Decides to consider this question again, in all its aspects, at the twenty-sixth session.

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