

INTERNATIONAL COMMITTEE OF THE RED CROSS

REAFFIRMATION AND DEVELOPMENT OF INTERNATIONAL HUMANITARIAN LAW APPLICABLE IN ARMED CONFLICTS

CONFERENCE OF GOVERNMENT EXPERTS

In its issue of April 1971, *International Review* printed an account of the Conference of Red Cross experts convened by the ICRC that had taken place at The Hague, in co-operation with the Netherlands Red Cross, from 1 to 6 March 1971. A report on its work was submitted to the Conference of Government Experts on the Reaffirmation and Development of International Humanitarian Law, it, too, convened by the ICRC, which opened in Geneva on 24 May 1971.

Over two hundred experts, delegated by 41 governments, are taking part in the Conference. At the official opening ceremony, addresses were delivered by Mr. Marcel A. Naville, President of the ICRC, Mr. Willy Donzé, President of the State Council of the Republic and Canton of Geneva, and Professor Willem Riphagen, Director of the Legal Department of the Royal Netherlands Ministry of Foreign Affairs. Extracts from their speeches are given below.

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After recalling the studies in the legal field that the ICRC had carried out, and showing that the present Conference of Government Experts marks an important stage in the work pursued for the benefit of victims of war in all its different forms, the President of the International Committee welcomed Mr. Marc Schreiber, representative of the United Nations Secretary-General, and his colleagues taking part in the Conference. He then continued:

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I would also express my gratitude to the States which have responded to the ICRC's appeal by delegating to this conference experts whose advice, coming from people so competent, will be essential for our progress on the course we have set. The ICRC looks upon their attendance as a proof of their interest and confidence, of which it is most appreciative. Indeed, without the active support of governments, the mission it has undertaken could not be brought to a successful conclusion. By delegating experts to this conference, your governments discounted all political or diplomatic considerations and, to avoid placing the success of the meeting in jeopardy, they have abstained from raising any question of the relationships among themselves. We thank them warmly. I would also like to avail myself of this opportunity to confirm that the ICRC's invitation to governments whose experts are present here does not in any way imply a standpoint or opinion on any government's past or present attitude concerning humanitarian law and the implementation of the Geneva Conventions in particular cases.

This seems the proper place to restate that this conference is first and foremost an opportunity to consult specialists and to exchange views in order the better to highlight questions, suggest answers, and find methods of practical application. Only the appointed experts, and the representatives of the United Nations Secretary-General and of the ICRC will therefore attend the meetings.

In view of the nature of the consultation, there could be no question of inviting all governments to send experts; that would have made discussion almost impossible. It was for that reason that the ICRC, in accordance with the directives of the XXIst International Conference of the Red Cross, drew up a list of governments representative of the main legal and social systems throughout the world, bearing in mind at the same time the active interest which several governments had displayed in the undertaking. Nevertheless, the opinions of governments which have not sent experts will, of course, be welcomed with interest and gratitude by the ICRC.

... Ladies and Gentlemen, the undertaking in which you are going to participate is an act of faith in the value and the rule of law. It is the coming generation which will bear the responsibility for deciding whether unbridled violence shall prevail or law shall supplant brutality and ensure respect for the demands of humanity. In this

work we must be realistic, and law must follow up events closely, otherwise there is a risk of raising only a semblance of humanitarianism from which nothing useful may be expected. It is not possible, and it would be absurd, to close our eyes to contemporary realities and antagonisms which separate so many human communities. But neither must we forget that the legal structure for which many of us have been working for so many years and of which one of the most decisive phases will begin in the next few days, must be planned in terms not only of the situation today, but also of that of tomorrow. Humanitarian law must undoubtedly be effective immediately, but it must especially be applicable in the future when the political, social and military systems which we know today may have changed radically. Let us therefore broach our proceedings with that objectivity which alone permits the creation of a lasting structure.

It has been said that scientific probing into the future is not the foretelling of probabilities but the preparation of a desirable future, and perhaps even more, the endeavour to make the desirable future a probability. It is up to you to demonstrate foresight in a field from which mankind awaits results with impatient anxiety.

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The President of the State Council, on behalf of the Geneva authorities, welcomed those taking part in the Conference. He recalled the events which, in the nineteenth century, had preceded the foundation of the Red Cross, the development of which he described as one of the principal events by means of which Geneva asserted its international vocation. Showing that, together with the efforts to protect the human person, there had always been, too, the will to defend peace and to study the measures the purpose of which was to attain peace, he concluded with the following words:

... A realistic view of the problems facing the international community has led it to carry on its search for peace simultaneously on two planes: to prevent armed conflicts, by seeking a solution to the profound causes of war and by employing the channels of diplomacy

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and arbitration; but also, in the presence of such conflicts, to improve the protection of victims, by fighting for the elimination of needless suffering.

... There is no doubt that your debates will be animated with that realistic spirit, desirous to reach concrete solutions for the strengthening of that protection as speedily as possible. I, therefore, on behalf of the Geneva authorities, express to you my best wishes for the full success of your deliberations.

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The representative of the Netherlands Government, Mr. Riphagen, first paid tribute to the Red Cross, a "unique and priceless entity". He then said that, in his mind, there existed no doubt that the universal recognition and protection of the human being as such represented the main line of force in the development of international law in the nineteenth and twentieth centuries.

... There is also, alas!, no doubt that war involving States, and more generally armed conflicts between opposing factions, continue to threaten the world, endangering the life of the individual and, at times, the very foundations of human existence.

In the face of this formidable clash between reality and aspirations, the international community is endeavouring to find a solution or, at least, a compromise. One of the means of accomplishing this difficult task, namely the humanization of armed conflict, is of enormous importance.

... Armed conflicts are today increasingly varied in form and affect ever greater numbers of people.

In other words, the task which the Red Cross has set itself has become both more urgent and more difficult.

Mr. Riphagen concluded: *The weeks to come will, we hope, enable us to conceive more clearly the lines along which the effort may be continued to supplement existing humanitarian law by new international legal instruments. If necessary, it is planned to hold consultations with government experts at a later date.*

The Istanbul Resolution mentioned earlier also provides for the submission of proposals to governments as well as for one or more diplomatic conferences.

After these preliminaries, allow me to express my government's earnest hope that our Conference's work will reveal the general determination of the States represented here to promote the development of humanitarian law applicable in armed conflicts and thereby contribute to the bringing about of the conditions necessary to justify the convening of a diplomatic conference in the not too distant future.

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At the first plenary meeting, the Conference elected Mr. Jean Pictet, Vice-President of the ICRC, as its Chairman. Mr. Riphagen (Netherlands), Mr. Cristesco (Rumania) and Mr. Gonzalez-Galvez (Mexico) were elected Vice-Chairmen.

After a general discussion, the Conference formed four committees. These are being chaired by Mr. Singh (India), Mr. Lee (Canada), Mr. Dabrowa (Poland) and Mr. Gonzalez-Galvez (Mexico). The first committee is studying the "protection of the sick and wounded", the second the "protection of victims of non-international armed conflicts" and the "rules applicable in guerrilla warfare", and the third the "protection of the civilian population against dangers of hostilities" and the "rules relative to behaviour of combatants". The fourth committee, which had not originally been envisaged, is dealing with "measures intended to reinforce the implementation of the existing law"; the importance of this subject was stressed by many delegations during the general discussion.

As we go to press, the committees are continuing their work. The points covered will be taken up in plenary session until the end of the Conference on 12 June.