

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

RESPECT OF HUMAN RIGHTS IN TIME OF ARMED CONFLICT

The United Nations General Assembly, the 26th session of which was held in New York from 21 September to 22 December 1971, examined several matters of direct interest to the ICRC. We reproduce below the texts of the three resolutions adopted by the General Assembly on the item entitled "Respect for human rights in armed conflicts". The first two resolutions refer to the work of the Conference of Government Experts on the Reaffirmation and Development of International Humanitarian Law which was held in Geneva from 24 May to 12 June 1971 and to the preparations currently being made by the ICRC for a second session of the Conference of Government Experts to be held in May 1972. The third resolution concerns the Protection of Journalists on Dangerous Missions, the discussion of which is to be continued by the Human Rights Commission in 1972.

Furthermore, in resolution 2816 (XXVI) on "Assistance in cases of natural disaster and other disaster situations", the General Assembly adopted the proposals made by the Economic and Social Council¹; the Assembly invited the Secretary-General to appoint a Disaster Relief Co-ordinator with an office in Geneva and who would be responsible *inter alia* for co-ordinating the relief activities of the United Nations and the various intergovernmental and non-governmental organizations, especially the International Red Cross.

¹ See *International Review*, August 1971.

RESOLUTION 2852 (XXVI)

Respect for human rights in armed conflicts

The General Assembly,

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

Reaffirming *that, in order effectively to guarantee human rights, all States should devote their efforts to averting the unleashing of aggressive wars and armed conflicts that violate the Charter of the United Nations and the provisions of the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations,*

Recalling *the successive resolutions that have been adopted by the United Nations relating to human rights in armed conflicts, in particular General Assembly resolutions 2652 (XXV) of 3 December 1970, 2674 (XXV) and 2678 (XXV) of 9 December 1970, and 2707 (XXV) of 14 December 1970, and taking into account relevant resolutions of international conferences of the Red Cross,*

Deeply concerned *over the terrible suffering that armed conflicts continue to inflict upon combatants and civilians, particularly through the use of cruel means and methods of warfare and through inadequate restraints in defining military objectives,*

Desiring *to ensure the effective application of all existing rules relating to human rights in armed conflicts, as well as the development of these rules, and aware that progress in this regard will depend upon the political readiness and willingness of Member States,*

Conscious *that, although negotiations are going on in the field of disarmament concerning general and complete disarmament and concerning the limitation and elimination of nuclear, biological and chemical weapons, those deliberations do not deal with the question of*

prohibiting or restricting the use of other methods of warfare that are cruel, such as napalm, or that indiscriminately affect civilians and combatants,

Noting the comments by Governments¹ on the reports of the Secretary-General on respect for human rights in armed conflicts,²

Noting with appreciation the report of the Secretary-General³ on the comprehensive discussions undertaken at the Conference of Government Experts convened in 1971 by the International Committee of the Red Cross on the problem of reaffirmation and development of the international humanitarian law applicable in armed conflicts,

Having taken cognizance of the report prepared by the International Committee of the Red Cross on the work of the Conference of Government Experts,

Welcoming the decision of the International Committee of the Red Cross to convene in 1972 a second session of the Conference of Government Experts with broader participation to include all the States parties to the Geneva Conventions of 1949⁴ and to circulate in advance of that session a series of draft protocols,

Stressing the importance of further close co-operation between the United Nations and the International Committee of the Red Cross,

Determined to continue its efforts to achieve better application of existing rules relating to armed conflicts, as well as the reaffirmation and development of these rules,

1. Calls again upon all parties to any armed conflict to observe the rules laid down in the Hague Conventions of 1899 and 1907,⁵ the Geneva Protocol of 1925,⁶ the Geneva Conventions of 1949 and other humanitarian rules applicable in armed conflicts, and invites those States that have not yet done so to adhere to these instruments ;

2. Reaffirms that persons participating in resistance movements and freedom fighters in southern Africa and in territories under colonial and alien domination and foreign occupation who are strug-

¹ A/8313.

² A/7720 and A/8052.

³ A/8370.

⁴ United Nations, *Treaty Series*, vol. 75 (1950), Nos. 970-973.

⁵ Carnegie Endowment for International Peace *The Hague Conventions and Declarations of 1899 and 1907* (New York, Oxford University Press, 1915).

⁶ League of Nations, *Treaty Series*, vol. XCIV (1929), No. 2138.

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gling for their liberation and self-determination should, in case of arrest, be treated as prisoners of war in accordance with the principles of the Hague Convention of 1907 and the Geneva Conventions of 1949 ;

3. Invites the International Committee of the Red Cross to continue the work that was begun with the assistance of government experts in 1971 and, taking into account all relevant United Nations resolutions on human rights in armed conflicts, to devote special attention, among the questions to be taken up :

(a) To the need to ensure better application of existing rules relating to armed conflicts, particularly the Hague Conventions of 1899 and 1907, the Geneva Protocol of 1925 and the four Geneva Conventions of 1949, including the need for strengthening the system of protecting Powers contained in such instruments ;

(b) To the need for a reaffirmation and development of relevant rules, as well as other measures to improve the protection of the civilian population during armed conflicts, including legal restraints and restrictions on certain methods of warfare and weapons that have proved particularly perilous to civilians, as well as arrangements for humanitarian relief ;

(c) To the need to evolve norms designed to increase the protection of persons struggling against colonial and alien domination, foreign occupation and racist régimes ;

(d) To the need for development of the rules concerning the status, protection and humane treatment of combatants in international and non-international armed conflicts and the question of guerrilla warfare ;

(e) To the need for additional rules regarding the protection of the wounded and sick ;

4. Expresses the hope that the second session of the Conference of Government Experts on the Reaffirmation and Development of International Humanitarian Law Applicable in Armed Conflicts, to be convened in 1972 by the International Committee of the Red Cross, will result in specific conclusions and recommendations for action at the government level ;

5. Requests the Secretary-General, in line with paragraph 126 of his report on respect for human rights in armed conflicts,¹ to prepare

¹ A/8052.

as soon as possible, with the help of governmental qualified consultant experts, a report on napalm and other incendiary weapons and all aspects of their possible use ;

6. Further calls upon all States to disseminate widely information and instruction concerning human rights in armed conflicts and to take all the necessary measures to ensure full observance by their own armed forces of humanitarian rules applicable in armed conflicts ;

7. Requests the Secretary-General to encourage the study and teaching of principles of respect for human rights applicable to armed conflicts by the means at his disposal ;

8. Requests the Secretary-General to report to the General Assembly at its twenty-seventh session on the results of the Conference of Government Experts and any other relevant developments ;

9. Decides to inscribe an item entitled " Human rights in armed conflicts " on the provisional agenda of the General Assembly at its twenty-seventh session and to consider it in all its aspects.

RESOLUTION 2853 (XXVI)

Respect for human rights in armed conflicts

The General Assembly,

Recalling its resolutions 2674 (XXV), 2675 (XXV), 2676 (XXV) and 2677 (XXV) of 9 December 1970,

Noting also that the twenty-first International Conference of the Red Cross held at Istanbul in 1969 adopted resolution XIII concerning the reaffirmation and development of the laws and customs applicable in armed conflicts,¹

Noting with appreciation the report of the Secretary-General on respect for human rights in armed conflicts,² concerning in particular

¹ See A/7720, annex I, section D.

² A/8313.

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the report of the first session of the Conference of Government Experts on the Reaffirmation and Development of International Humanitarian Law applicable in Armed Conflicts, convened by the International Committee of the Red Cross, which met in Geneva from 24 May to 12 June 1971, as well as the International Committee's report on that Conference,

Emphasizing that effective protection for human rights in situations of armed conflict depends primarily on universal respect for humanitarian rules,

Recognizing that existing humanitarian rules relating to armed conflicts do not in all respects meet the need of contemporary situations and that it is therefore necessary to strengthen the procedure for implementing these rules and to develop their substance,

Welcoming the decision of the International Committee of the Red Cross to convene a second session of the Conference of Government Experts with the task of reaching agreement on the wording of various texts to facilitate discussion at a future diplomatic conference, and noting that all States parties to the Geneva Conventions of 1949¹ have been invited to participate.

Affirming that the successful development of humanitarian rules applicable in armed conflicts requires the negotiation of instruments which can be effectively implemented and which command the widest possible support,

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

1. Reiterates its call upon all parties to any armed conflict to observe the rules laid down in the Hague Conventions of 1899 and 1907,² the Geneva Protocol of 1925,³ 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 instruments ;

¹ United Nations, *Treaty Series*, vol. 75 (1950), Nos. 970-973.

² Carnegie Endowment for International Peace, *The Hague Conventions and Declarations of 1899 and 1907* (New York, Oxford University Press, 1915).

³ League of Nations, *Treaty Series*, vol. XCIV (1929), No. 2138.

2. Welcomes the progress made by the Conference of Government Experts on the Reaffirmation and Development of International Humanitarian Law Applicable in Armed Conflicts, as shown in its report, in considering the reaffirmation and development of international humanitarian law applicable in armed conflicts, as regards :

- (a) Protection of the wounded and the sick ;
- (b) Protection of victims of non-international armed conflicts ;
- (c) Rules applicable in guerrilla warfare ;
- (d) Protection of civilian population against dangers of hostilities ;
- (e) Strengthening of the guarantees afforded by international humanitarian law for non-military civil defence organizations ;
- (f) Rules relative to the behaviour of combatants ;
- (g) Measures intended to reinforce the implementation, in armed conflicts, of existing international humanitarian law ;

3. Expresses the hope that the second session of the Conference of Government Experts will make recommendations for the further development of international humanitarian law in this field, including, as appropriate, draft protocols to the Geneva Conventions of 1949, for subsequent consideration at one or more plenipotentiary diplomatic conferences ;

4. Calls upon States parties to the existing international instruments to review, as a matter of priority, any reservations they may have made to these instruments ;

5. Requests the Secretary-General :

(a) To transmit his latest report, together with any further observation received from Governments as well as the records of relevant discussions and resolutions of the General Assembly, to the International Committee of the Red Cross for consideration, as appropriate, by the Conference of Government Experts at its second session ;

(b) To report to the General Assembly at its twenty-seventh session on the progress made in the implementation of the present resolution :

6. Decides to consider this question again, in all its aspects, at its twenty-seventh session.

RESOLUTION 2854 (XXVI)

**Protection of journalists engaged in dangerous missions
in areas of armed conflict**

The General Assembly,

Recalling *its resolution 2444 (XXIII) of 19 December 1968 concerning, in particular, the studies to be undertaken by the Secretary-General in consultation with the International Committee of the Red Cross and other appropriate international organizations with regard, inter alia, to the need for additional humanitarian international conventions or for other appropriate legal instruments to ensure the better protection of civilians, prisoners and combatants in all armed conflicts,*

Recalling also *its resolution 2673 (XXV) of 9 December 1970, in which it expressed its conviction that there was a need for an additional humanitarian international instrument to ensure the better protection of journalists engaged in dangerous missions, particularly in areas where an armed conflict was taking place,*

Being aware that *the provisions of the humanitarian conventions at present in force do not cover some categories of journalists engaged in dangerous missions and do not correspond to their present needs,*

Noting *Commission on Human Rights resolution 15 (XXVII) of 24 March 1971, in which the Commission expressed its conviction that there was an urgent need to examine the question of the protection of journalists engaged in dangerous missions, both on humanitarian grounds and in order to enable journalists with due respect for the law to seek, receive and impart information fully, objectively and faithfully in the spirit of the purposes and principles of the Charter of the United Nations and the Universal Declaration of Human Rights concerning freedom of information,*

Noting *Economic and Social Council resolution 1597 (L) of 21 May 1971, in which the Council decided to transmit to the General Assembly a preliminary draft international convention on the protection of journalists engaged in dangerous missions submitted to it by the Commission on Human Rights, as well as the relevant records of*

the Commission on Human Rights and of the Economic and Social Council, as a valid basis for the discussions of the Assembly at its twenty-sixth session,

Noting the report of the Secretary-General containing the preliminary draft international convention on the protection of journalists engaged in dangerous missions, the observations received from Governments concerning the preliminary draft and the observations of the Conference of Government Experts on the Reaffirmation and Development of International Humanitarian Law Applicable in Armed Conflicts, which was held at Geneva at the invitation of the International Committee of the Red Cross,¹

Noting with appreciation the report of the Working Group established by the Secretary-General, in accordance with Commission on Human Rights resolution 15 (XXVII), and the annexed draft protocol relating to the composition and functions of the International Professional Committee for the Protection of Journalists Engaged in Dangerous Missions referred to in article 3 of the aforementioned preliminary draft convention,²

Having considered the observations submitted by some Member States in accordance with Commission on Human Rights resolution 15 (XXVII), including the observations of the Conference of Government Experts on the Reaffirmation and Development of International Humanitarian Law Applicable in Armed Conflicts, convened by the International Committee of the Red Cross, as well as the discussions on the item and the alternate draft convention submitted during the debate at the twenty-sixth session of the General Assembly,

1. Believes that it is necessary to adopt a convention providing for the protection of journalists engaged in dangerous missions in areas of armed conflict ;

2. Invites the Economic and Social Council to request the Commission on Human Rights to consider as a matter of priority at its twenty-eighth session the draft convention contained in Economic and Social Council resolution 1597 (L), taking into consideration : the

¹ A/8371 and Add. 1-3.

² A/8438 and Add. 1.

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draft convention submitted by Australia,¹ the United States working paper² and the observations of Governments,³ as well as all subsequent documents including the annexed draft protocol prepared by the Working Group in accordance with Commission on Human Rights resolution 15 (XXVII) ;

3. Further requests *the Commission on Human Rights to transmit its report to the next session of the Conference of Government Experts on the Reaffirmation and Development of International Humanitarian Law Applicable in Armed Conflicts, to be convened by the International Committee of the Red Cross, in order that the International Committee may submit its observations to the General Assembly at its twenty-seventh session ;*

4. Invites *Governments to transmit their observations on the part of the report of the Commission on Human Rights on its twenty-eighth session relating to this item ;*

5. Requests *the Secretary-General to submit the replies received and an analytic report on those replies to the General Assembly at its twenty-seventh session ;*

6. Decides *to examine this item as a matter of the highest priority at its twenty-seventh session, taking into consideration the recommendations transmitted to the Assembly by the Economic and Social Council.*

¹ A/C.3/L.1902.

² A/C.3/L.1903.

³ A/8371 and Add. 1.