

1453rd meeting

Tuesday, 4 December 1973, at 11 a.m.

Chairman: Mr. Sergio GONZÁLEZ GÁLVEZ (Mexico).

A/C.6/SR.1453

AGENDA ITEM 96

Respect for human rights in armed conflicts: report of the Secretary-General (*continued*) (A/9123 and Corr.1 and Add.1 and 2, A/9215, A/C.6/L.964, A/C.6/L.966, A/C.6/L.968-970)

1. Mr. ABSOLUM (New Zealand) said that it had become regrettably clear, since the signing of the Charter, that the objective of saving succeeding generations from the scourge of war would not be quickly or easily achieved. The world therefore needed laws to eliminate the most inhuman effects of conflicts and to keep suffering and loss to a minimum. Existing laws were out of date and incomplete and horrifying developments in military technology and the apparent willingness of Governments to tolerate the application of violence to large proportions of the population threatened to leave those laws behind as irrelevant monuments to a more humane age.
2. His Government therefore welcomed the efforts of the International Committee of the Red Cross (ICRC) to strengthen and develop the existing humanitarian law applicable in armed conflicts and also the initiative of the Swiss Federal Council in convening the Diplomatic Conference of 1974, the need for which was clearly urgent. Thanks to the efforts of ICRC, the preparatory work for the Conference had been thorough and detailed. New Zealand would do everything in its power to make the Conference a success and believed that that success would lie in the adoption of widely acceptable new instruments reflecting genuine commitment to reverse the trend towards total and indiscriminate warfare. It was to be hoped that all countries would be prepared to put aside short-term political objectives and would show the necessary goodwill and determination to make the most of that opportunity to contribute to the development of international humanitarian law.
3. Although his delegation regarded the two draft Additional Protocols prepared by the ICRC¹ as a useful basis for discussion, it considered that the achievements of the Conference would be relatively modest unless a serious attempt was made to formulate new and specific rules on the use of weapons. The well-established norm of international law prohibiting the use of weapons deemed to cause unnecessary suffering had been severely eroded by developments in technology and military practice, and there had been many recent instances where the pursuit of military advantage had been allowed to override the dictates of humanity. Accordingly, his Government believed that there was a strong case for a total prohibition of the use of napalm and other incendiary weapons; although such a prohibition might seem limited and even peripheral in the

context of all the horrors of modern warfare, it would represent a significant step along the road towards disarmament, a brake on the development of more horrifying weapons and a starting-point for the search for means of doing away with war and the use of every kind of weapon. The question of the prohibition of the use of specific weapons should therefore be one of the major items on the agenda of the Conference of 1974.

4. As its contribution to the success of the Conference, New Zealand had been pleased to be one of the sponsors of draft resolution A/C.6/L.964 which he hoped would be adopted unanimously.

5. Miss GITHU (Kenya) said that her delegation, which believed that existing international law relating to human rights in armed conflicts must be reaffirmed and developed, wished to express its appreciation to the Swiss Government for convening the Diplomatic Conference on the subject. It was to be hoped that that Conference would be guided by the realization that modern warfare, sophisticated weapons and the effects thereof were by no means covered by existing law and would devote special attention to developing the rules of humanitarian law contained in the Conventions of The Hague of 1899 and 1907, the Geneva Conventions of 1949 and other pertinent instruments. Problems of applying existing rules must be carefully examined, with a view to improving their application, and all necessary measures should be taken to ensure full observance of those rules by the armed forces of all States. Information and instructions concerning human rights in armed conflicts should be widely disseminated, and States which had not yet become parties to the Conventions of The Hague and Geneva should be urged to do so.

6. Her delegation also believed that the Conference should devote much attention to evolving norms directed towards increasing protection for peoples struggling against colonial and alien domination, foreign occupation and racist régimes. In its opinion, people fighting for independence and self-determination were combatants in armed conflicts, and no longer insurgents, since they had a fundamental right to fight for their freedom. National liberation movements had not only been recognized by various regional organizations, but had also been accepted by the General Assembly as the authentic representatives of the aspirations of the majority of their populations and had been granted observer status in United Nations deliberations. Protection under the existing rules should therefore be extended to liberation movements which foreign oppressors had inhumanly attacked with horrifying weapons. Combatants should be treated humanely, and any prisoners captured should be treated as pris-

¹ Geneva, June 1973.

oners of war under the Geneva Conventions. Non-combatants should also be protected: it was hardly necessary to reiterate the contempt with which her Government regarded the horrible massacres of innocent women and children in areas under colonial domination, especially in southern Africa. The liberation movements should be represented and allowed to participate in the Conference, since their interests could not be left in the hands of the minority régimes. Accordingly, her delegation had introduced an amendment (A/C.6/L.966) to the otherwise acceptable draft resolution A/C.6/L.964, proposing the addition of a new operative paragraph 2 whereby the Assembly would urge the invitation of the liberation movements recognized by the various regional organizations in accordance with the practice of the United Nations to participate in the Conference as observers. Kenya hoped that the amendment would be acceptable to the majority of the Committee, and was pleased to accept the Indonesian subamendments (A/C.6/L.968), which clarified its amendment.

7. Her delegation commended the work of ICRC in clarifying a number of issues and preparing for the Conference. It hoped that the Secretary-General's report (A/9123 and Corr.1 and Add.1 and 2) and the draft Additional Protocols to the Geneva Conventions of 1949 prepared by ICRC would provide a sound basis for discussion and that an even more practical approach would be adopted at the Conference, so that the international community could be spared existing terrors through the application of humanitarian law.

8. Mr. MOTZFELDT (Norway) said that, as long as the horrors of war remained realities, his country's policy would be to try to secure through international law the highest possible degree of protection for civilians, combatants and prisoners of war on both sides in an armed conflict. Accordingly, it welcomed the Swiss initiative to convene a Conference on the reaffirmation and development of the humanitarian law applicable in armed conflicts and considered that the two draft Additional Protocols should serve as a good basis for the discussions. His Government would do its utmost to contribute to the success of the Conference.

9. Turning to the situations of conflict which seemed to call for the quickest possible introduction of new rules, he observed that the existing conventional humanitarian law corresponded more to the needs of the nineteenth century than to modern requirements. First of all, there were situations where an industrial State was involved in a conflict with a developing country or with a national liberation movement and, secondly, there were the civil wars which had flared up in some developing countries after independence because of tribal or other serious differences. Those types of conflict often led to complex and serious humanitarian problems. In his Government's opinion, the right to humanitarian protection should be the same irrespective of the political or legal classification of the conflict in question. Moreover, identical rules of international law should, as far as possible,

be applicable in international and non-international armed conflicts.

10. His delegation was glad that the important issue of the prohibition or restriction of use of specific weapons deemed to cause unnecessary suffering or to have indiscriminate effects, on which agreement had been reached at the recent International Red Cross Conference at Teheran, would be taken up at the Geneva Conference.

11. Norway considered that wars of national liberation should be considered to be international conflicts within the meaning of article 2 which was common to all four Geneva Conventions of 1949.² That view reflected his Government's anxiety to provide civilians, combatants and prisoners of war on both sides with maximum humanitarian protection. Guerrilla warfare, which was being used in international and other armed conflicts and differed from terrorism and banditry as well as from conventional warfare, gave rise to many humanitarian problems which must be solved. His Government attached great importance to working out rules for better protection of the civilian population of areas in which such conflicts were being waged and to preparing a new definition of prisoners of war under which captured guerrilla soldiers would be given the same protection as captured soldiers of a regular army.

12. Another important problem was that of humanitarian relief in areas where armed conflicts were occurring. The fact that a large proportion of the victims of armed conflicts in past decades had been civilians who had died not from the effects of arms but from famine and epidemics clearly showed the urgency of the problem and the need to formulate new rules of international law enabling international relief units to distribute food and other basic requirements in such areas.

13. His Government would support any request from the national liberation movements recognized by the Organization of African Unity to participate in the Geneva Conference of 1974. Not only should those movements be enabled to express their views on questions of direct importance to them, but the Conference could benefit by their experience in the solution of humanitarian problems in armed conflicts. The question of their participation would, of course, have to be decided by the Conference itself, as would their status at it.

14. Miss VEGA (Peru) drew attention to the fact that the International Conference on Human Rights held in 1968 had stated, in its resolution XXIII,³ that peace was the underlying condition for the full observance of human rights and war was their negation, that nevertheless armed conflicts continued to plague humanity and that even during periods of armed conflict, humanitarian principles must prevail. The Conference had requested the General Assembly to invite the Secretary-General to study the need for additional

² United Nations, *Treaty Series*, vol. 75, Nos. 970-973.

³ See *Final Act of the International Conference on Human Rights* (United Nations publication, Sales No. E.68.XIV.2), p. 18.

humanitarian conventions or for possible revision of those existing.

15. The complexity of international relations, technological developments and, above all, recent events, had caused the international community to become aware of the need to reaffirm that human rights must be respected even in times of armed conflict. Thus, the General Assembly had reaffirmed in various resolutions the guiding principles that captured participants in liberation movements must be treated as prisoners of war in accordance with the Geneva Conventions, that civilian populations or individual civilians must not be subjected to attacks against their person as reprisals and that combatants in armed conflicts who were not protected by the Conventions of 1949 should be accorded the same humanitarian treatment as that defined in the principles of international law applicable to prisoners of war. In its latest resolution on the subject (3032 (XXVII)) the Assembly had expressed its concern for securing maximum protection for civilians, prisoners and combatants in all armed conflicts and for limiting and prohibiting the use of certain weapons and methods of warfare. Furthermore, her delegation wished to draw attention to the draft resolution on napalm and other incendiary weapons and all aspects of their possible use, recently adopted by the First Committee,⁴ and particularly to its operative paragraph 1, in which the forthcoming Conference was invited to consider, without prejudice to its examination of the draft Protocols submitted to it by ICRC, the question of the use of napalm and other incendiary weapons, as well as other specific conventional weapons which might be deemed to cause unnecessary suffering or to have indiscriminate effects, and to seek agreement on rules prohibiting or restricting the use of such weapons.

16. Reaffirming the position it had taken on the subject in the past, Peru would vote for draft resolution A/C.6/L.964, in the belief that the forthcoming Conference would be an important step in developing international humanitarian law applicable in armed conflicts. It would also vote for draft resolution A/C.6/L.969, which was perfectly compatible with the other draft and, moreover, coincided with Peru's conviction that colonialism in all its forms was a violation of the Charter.

17. Mr. MEISSNER (German Democratic Republic) said that the necessity of solving the problem of respect for human rights in armed conflicts had become particularly obvious in view of the methods of warfare used in the past few years, especially with regard to the use of electronic weapons, napalm and other incendiary weapons, indiscriminate area bombardment and so forth. The forms and methods of so-called modern warfare must not be allowed to restrict the effectiveness of international humanitarian law, which must be applied consistently against aggressive warfare.

18. His delegation welcomed the two draft Additional Protocols prepared by ICRC, which differentiated clearly between the rules applicable to international armed conflicts and those which States undertook

also to apply to non-international conflicts. That provided a guarantee against the misuse of international humanitarian law as a pretext for intervention in the internal affairs of a country. In that context, his delegation attached special importance to operative paragraph 3 of draft resolution A/C.6/L.969 whereby armed conflicts involving the struggle of peoples against colonial and alien domination and racist régimes were to be regarded as international armed conflicts, to which the Geneva Conventions and the Additional Protocols were fully applicable. It was thus recognized that the struggle of colonial peoples for self-determination was legitimate and in full accordance with the principles of international law and that combatants in that struggle must also enjoy the protection of the Geneva Convention relative to the Treatment of Prisoners of War of 1949. An essential corollary of that recognition was that any violation of the legal status of those combatants carried with it responsibility under international law. For all those reasons, his delegation fully supported draft resolution A/C.6/L.969.

19. Although the draft Additional Protocols would serve as a good basis for the forthcoming Conference, a number of other important questions required discussion. Moreover, the material stipulations of the first of these draft Additional Protocols, on international armed conflicts, were directly related to the possibility of the institution of the Protecting Power being established in practice. For example, experience had shown that the efficiency of such an institution was nullified as soon as the principle of reciprocity was destroyed by differences in arms techniques.

20. Turning to draft resolution A/C.6/L.964, he said that his delegation fully endorsed the statements in the first and second preambular paragraphs. Where the eleventh preambular paragraph was concerned, however, it believed that the vitally important problems of the prohibition or restriction of specific conventional weapons and the use of napalm and other incendiary weapons should primarily be discussed in the Conference of the Committee on Disarmament, which was attended by experts competent to deal with the many technical and military aspects of the problems and to stipulate measures against the use of napalm and other incendiary weapons. On the other hand, the substance of the problems did not fall within the competence of the Geneva Conference of 1974. With regard to operative paragraph 3, his delegation was glad that the Geneva Protocol of 1925 had been mentioned among the instruments containing applicable rules of international humanitarian law; in that connexion, mention should be made of General Assembly resolution 2162 B (XXI), whereby the few States which had not yet acceded to the Protocol were invited to do so. His country also viewed the rules in question in the light of General Assembly resolutions 2444 (XXIII) on respect for human rights in armed conflicts and 2603 (XXIV) on the question of chemical and bacteriological (biological) weapons.

21. The current improvement in the international climate was conducive to the productive continuation of the work, and the German Democratic Republic

⁴ Subsequently adopted by the General Assembly as resolution 3076 (XXVIII).

was prepared to co-operate in suitable ways, especially by participating in the forthcoming Conference.

22. Mr. BAJA (Philippines) said that ideally the Assembly should not be considering the item before it, since disputes between nations should be settled by peaceful means. Nevertheless, since the world was still one of wars and violence, the best alternative was to try to protect human rights as far as possible in armed conflicts. That problem was particularly pressing at a time when conflicts were accompanied by so much human suffering and material devastation and when military objectives and operations could hardly be delimited. As the number of conflicts increased, as weapons causing unnecessary suffering and producing indiscriminate effects became more sophisticated and as new methods of warfare appeared, the international community had naturally turned its attention to the development of humanitarian law applicable in armed conflicts. The United Nations had begun to study the subject in 1968, ICRC and various governmental and private organizations had made proposals and had conducted studies, and two sessions of the ICRC Conference of Government Experts had been held, one in 1971 and one in 1972.

23. The Philippines was a party to the Geneva Conventions of 1949 and had submitted specific proposals to the two sessions of the Conference of Government Experts held by the ICRC. It believed that priority should be given to the reaffirmation and development of international humanitarian law related to the protection of the civilians, who bore the brunt of all armed conflicts, although they were most often the innocent pawns of military and political decisions. Additional rules for the protection of the civilian population should therefore be evolved, whether the conflicts concerned were international or non-international, whether the wars were declared or undeclared and whether the hostilities were so-called guerrilla wars or wars of national liberation. The broadest possible definition of the "civilian population" should be made and the distinction between military targets and civilian objects should be as clear as possible. Restraints should be imposed on measures directly threatening the basic human rights of civilians, whatever the strategic military value of such measures might be. Since modern weapons in themselves caused as much unnecessary suffering to civilians as most military operations, the Philippine delegation had voted for the draft resolution on napalm and other incendiary weapons in the First Committee.

24. Protection of human rights in armed conflicts should be extended to the protection of those rights after the conflict, particularly in occupied territories. Past and current experience showed that it was in those territories that human rights were most likely to be violated, especially since the inhabitants were often at the mercy of the occupying Power. A related aspect of humanitarian law was the question of relief operations, for the civilian population suffered not only from hostilities, but also from famine and other disastrous consequences of war. Rules were needed to ensure that the basic needs of the civilian population were met and that relief operations were not hampered by political and military considerations. That impor-

tant question should be discussed at the forthcoming Conference.

25. Rules of international humanitarian law, reaffirmed and developed, would remain hollow provisions unless effective implementation was provided for, and it was in that area that objective as well as subjective differences of opinion and approach had arisen. In that connexion, the Philippine delegation to the 1972 session of the ICRC Conference of Government Experts had submitted a paper proposing an international code of offences and a procedure designed to strengthen international humanitarian law and to prevent violations thereof. Yet whatever legal sanctions or administrative machinery might be evolved, the effective implementation of humanitarian rules would depend greatly on the still elusive concept of political will. Although that will was sorely lacking in a number of countries, his delegation saw it as a means of eliminating violations of human rights in armed conflicts, since that was an area which, after all, should transcend ideological, racial and religious differences.

26. A broad basis had been laid for the forthcoming Conference: the experts had done the groundwork and the time had come for a period of negotiation with a view to obtaining a common denominator of all the studies, resolutions and policies. It was vital that the momentum thus gained should not be lost or dissipated by delay. His delegation therefore supported draft resolution A/C.6/L.964, which drew attention to the inadequacy of the existing rules and at the same time gave States a fresh appreciation of the need to evolve additional rules corresponding to the contemporary situation. Operative paragraph 2 was the key provision of the draft resolution.

27. His delegation was convinced that the reaffirmation and further development of international humanitarian law applicable in armed conflicts must be accompanied by a corresponding reassessment of attitudes and a reaffirmation of commitment by States to the protection of human rights.

Mr. Bozanga (Central African Republic), Rapporteur, took the Chair.

28. Mr. JOEWONO (Indonesia) briefly traced the history of the consideration of the item under discussion by the United Nations and recalled the provisions of resolution XXIII of the International Conference on Human Rights, held at Teheran in 1968.

29. Since the Second World War armed conflicts had become increasingly brutal and violent. Wars in the classical sense had to a great extent been supplanted by armed conflicts, and the classical laws of war were hopelessly inadequate to deal with the new problems posed by modern armed conflicts and scientific and technological developments in the means of warfare. Aware of the inadequacy of the existing instruments, the ICRC and other bodies had called for a reappraisal of the relevant conventions and for additional conventions to protect the civilian population, prisoners of war and combatants against undue suffering arising out of armed conflicts. Sensitive to public opinion and appreciating the work of organizations such as ICRC, the General Assembly had adopted

resolution 3032 (XXVII) with a view to promoting the protection of human rights in armed conflicts.

30. While the laws of war set forth in the Conventions of The Hague of 1899 and 1907, the Geneva Protocol of 1925 and the Geneva Conventions of 1949 were not comprehensive, their provisions relating to methods of warfare were binding on all States, whether or not they had taken part in the relevant conferences or ratified the Conventions, because those provisions were declaratory of the principles of customary international law. Although the basic humanitarian rules of customary international law applied in all circumstances, there was clearly an urgent need for a reappraisal of the specific rules applicable in armed conflicts. The Geneva and The Hague Conventions should be reconsidered in the light of technological developments and recent practices in warfare whereby civilians and non-combatants often became the chief object of attack. The provisions relating to armed conflicts should also be extended to conflicts of a non-international character. In addition, the categories of those entitled to prisoner-of-war treatment should be broadened to include persons fighting in organized resistance movements against colonialist régimes and foreign domination. It was to be hoped that the forthcoming Diplomatic Conference would constitute a meaningful step forward in the modernization and improvement of humanitarian law, as well as the rules and customs of war laid down in the Geneva and The Hague Conventions.

31. Turning to the draft resolutions on the item under consideration, he said that his delegation would give its full support to draft resolution A/C.6/L.964. The Kenyan amendment to that draft resolution (A/C.6/L.966) was an excellent and very pertinent proposal. However, for the sake of greater clarity and precision, his delegation had proposed certain subamendments of a purely drafting nature in document A/C.6/L.968. He was pleased that the representative of Kenya had accepted them.

32. Mr. RAKOTOSON (Madagascar) commended the Secretariat on the excellent survey it had prepared on the topic of the existing rules of international law concerning the prohibition or restriction of use of specific weapons (A/9215). His delegation was also pleased with the Secretary-General's report on relevant developments concerning human rights in armed conflicts (A/9123 and Corr.1 and Add.1 and 2). Of particular interest were the four resolutions adopted at the twenty-second International Conference of the Red Cross on the basis of the report submitted by the Commission on International Humanitarian Law. He noted with satisfaction that resolution IV urged the Diplomatic Conference to consider inviting national liberation movements to participate in its work.

33. The question of the prohibition or restriction of use of specific weapons causing unnecessary suffering or having indiscriminate effects had been a subject of constant discussion in the United Nations, and a solution to that problem would require an effort of will on the part of States. His delegation attached special importance to the restriction of incendiary weapons, such as napalm and phosphorus, which

caused horrible suffering. The United Nations had rightly condemned the use of napalm in General Assembly resolutions 2444 (XXIII) and 2932 A (XXVII), and at the current session the First Committee had adopted a draft resolution on that subject. In view of the terrible sufferings of the victims of such weapons, there should be no place for subterfuge. The humanitarian considerations set forth in the "Martens clause" (see A/9215, chap. I, part I, sect. 3) should take precedence over any others.

34. Another important point that must be taken into consideration in the further development of humanitarian law relating to armed conflicts was the status of the national liberation movements, which represented peoples struggling for freedom and independence. Their legitimate aspirations were recognized in the Charter and many United Nations resolutions. In particular, General Assembly resolution 2621 (XXV) reaffirmed the inherent right of colonial peoples to struggle by all necessary means at their disposal against colonial Powers which suppressed their aspiration for freedom and independence. The status of the liberation movements was thus recognized in international law; freedom fighters, as well as the civilian population, were entitled to be protected by the laws and customs of war. That principle was established in paragraph 3, subparagraph (6) (a), of resolution 2621 (XXV), which stated that "All freedom fighters under detention shall be treated in accordance with the relevant provisions of the Geneva Convention relative to the Treatment of Prisoners of War, of 12 August 1949." Other resolutions in the same spirit referred to the specific cases of freedom fighters in Namibia, Angola, Mozambique, Guinea-Bissau and Southern Rhodesia. The application of the Convention of The Hague of 1907 and the Geneva Conventions of 1949 to civilians was required by General Assembly resolutions 2674 (XXV) and 2852 (XXVI). Thus, the principle had been accepted by the United Nations: what remained was to put it into effect.

35. There was no need to recount the horrors of the violence perpetrated against freedom fighters nor the acts of barbarism inflicted on the civilian population, even the population of whole villages. It was clearly a matter of the greatest urgency that freedom fighters and the civilian population should be protected by the rules of international law, as set forth in the Conventions of The Hague of 1899 and 1907, the Geneva Protocol of 1925 and the Geneva Conventions of 1949. Any other solution would mean that freedom fighters would receive less favourable treatment than fighters in other armed conflicts; that would be a flagrant injustice in view of the recognized legitimacy of their struggle. The forthcoming Diplomatic Conference should make the solution of that problem one of its main tasks, and the United Nations should give further consideration to the problem as well. The success of the Conference, which his delegation earnestly desired, would depend in large measure on the willingness of the participants to take account of contemporary requirements.

36. Mr. KARASSIMEONOV (Bulgaria) said that from the time of the International Conference on

Human Rights of 1968 the United Nations had taken an active part in the discussion of the entire range of problems related to the reaffirmation and development of international humanitarian law applicable in armed conflicts. The United Nations had placed the problem in its political and legal perspective while stressing its relation to human rights. The intense interest the United Nations took in the subject was evident from the resolutions it had adopted, in particular General Assembly resolution 3032 (XXVII), which rightly noted that only complete respect for the Charter of the United Nations and general and complete disarmament under effective international control could bring about full guarantees against armed conflicts and the suffering caused by such conflicts. By adopting that position of principle, the General Assembly had recognized the interdependence of the efforts aimed at reducing the threat of another war and the reaffirmation and development of humanitarian rules applicable in armed conflicts. That interdependence was further recognized in General Assembly resolution 2936 (XXVII) entitled "Non-use of force in international relations and permanent prohibition of the use of nuclear weapons".

37. His delegation welcomed the co-operation established between the United Nations and other humanitarian organizations, such as the ICRC. The excellent survey prepared by the Secretariat was convincing proof of the fruitful co-operation and division of labour between the United Nations and ICRC. That study would, in his considered opinion, greatly facilitate the task of the forthcoming Diplomatic Conference which was to elaborate and adopt Additional Protocols to the Geneva Convention. In that connexion, his delegation wished to express its appreciation to ICRC for its work on the reaffirmation and development of international humanitarian law applicable in armed conflicts. The most tangible results of that work were the draft Protocols which would form the basis for the work of the forthcoming Conference. His delegation was also grateful to the Swiss Government for convening the Conference.

38. As representatives of his country had participated in the preparation of the two draft Additional Protocols, he would refrain from commenting on them in detail. However, he noted with satisfaction that ICRC had accepted the idea that it was necessary to have two separate instruments, one dealing with the protection of victims of international armed conflicts and the other concerned with conflicts of a non-international character. The distinction between international and non-international conflicts would undoubtedly facilitate the work of the Diplomatic Conference.

39. Like others, his delegation was determined not to accept any international instrument which failed to guarantee the inalienable right of peoples under colonial and racist domination to self-determination and independence. The Sixth Committee should take an unequivocal stand on that issue, thus providing guidelines for the forthcoming Conference. It should declare clearly that any attempt to impede the struggle for national liberation against colonial and racist

régimes was illegal, as the General Assembly had done dramatically at the current session by adopting resolution 3061 (XXVIII) on the illegal occupation by Portuguese military forces of certain sectors of the Republic of Guinea-Bissau. In his delegation's view, which he believed was shared by the majority of the States Members of the United Nations, conflicts associated with the struggle for independence against colonial domination should be regarded as conflicts of an international character within the meaning of the Geneva Convention of 1949, with all the legal consequences resulting therefrom. The legal status of combatants should attach to persons engaged in an armed struggle against colonial forces. His delegation fully endorsed the remarks made in that connexion by the representative of the Ukrainian Soviet Socialist Republic (1450th meeting). For those reasons, his delegation had joined in sponsoring draft resolution A/C.6/L.969, which enunciated clearly the basic principles of the legal status of the combatants struggling against colonial and alien domination and racist régimes.

40. His delegation was prepared to vote in favour of draft resolution A/C.6/L.964, with the incorporation of the Kenyan amendment (A/C.6/L.966), which his delegation unreservedly endorsed. His delegation was also prepared to accept the Chairman's suggestion, which had been supported by the representative of Turkey, to the effect that the item under discussion should be retitled: "Reaffirmation and development of international humanitarian law applicable in armed conflicts".

41. Mr. GORDON-SMITH (United Kingdom) paid a warm tribute to the recent efforts of ICRC concerning the reaffirmation and development of the rules of humanitarian law applicable in armed conflicts. By preparing the two draft Additional Protocols to the Geneva Conventions of 1949, ICRC had greatly assisted Governments in identifying the issues which would need to be decided at the forthcoming Diplomatic Conference. His delegation was also grateful to the Swiss Federal Government for convening the Conference. He also expressed appreciation for the work done by the Secretariat, which included the Secretary-General's report and the very detailed and comprehensive survey. The latter document would be a valuable work of reference for Governments; however, he agreed with the representative of Sweden (1450th meeting) that it was complicated and should be used with caution.

42. His delegation recognized the importance of restating in up-to-date terms, and supplementing, the rules of humanitarian law relating to armed conflicts. In armed conflicts both international and non-international, the potentialities for devastation and human suffering had increased. Many speakers had emphasized the importance of providing better protection for civilian populations in view of those potentialities. One aspect of that issue was the prohibition or restriction of use of specific types of modern conventional weapons. His delegation currently accepted that the Diplomatic Conference should consider that matter, but it was important that the Conference should take

fully into account the work done by the Conference of Government Experts to be convened by ICRC to study the matter in depth.

43. Another problem was that of securing the observance of humanitarian rules. So far as rules other than those relating to actual combat were concerned, it would seem desirable to strengthen the mechanism for the appointment of protecting Powers and the role of ICRC to act as substitute.

44. Certain basic provisions regarding conflicts of a non-international character were set forth in article 3, common to the four Geneva Conventions. If additional detailed and complex rules were to be applied to both sides, it would be necessary to limit their application to conflicts where each side had an organization sufficiently sophisticated to be capable of carrying out the obligations envisaged.

45. It had been suggested that a distinction should be drawn between the parties to armed conflicts according to the justice of the cause or motives of one side or the other. That would alter one of the basic principles on which existing humanitarian law was based, namely that its protective rules should apply equally to persons on each side, irrespective of the justice of their cause. Was it imaginable that, in the midst of a conflict, a party would do otherwise than maintain that it was its own cause which was the just one? In some cases it might not be easy even for an impartial observer to pronounce on the question which side had legitimately resorted to armed force. It would be a retrograde step if the application of humanitarian rules depended on the unilateral and subjective judgements of individual parties on such a question.

46. It had also been suggested, in draft resolution A/C.6/L.969, that armed conflicts involving "the struggle of peoples against colonial and alien domination and racist régimes" should be regarded as international conflicts. However, it was apparently envisaged that the benefit of the provisions of the Geneva Conventions and other humanitarian instruments applicable to international conflicts should be applicable to one side only. It was therefore a proposal for the application to a particular type of conflict of the kind of idea that he had just mentioned. It also involved the legal fiction of treating what were really internal conflicts as if they were international ones. In his delegation's view, those conflicts should be dealt with by an instrument on the lines of the second draft Protocol improving the humanitarian rules applicable to non-international conflicts. For those and other reasons, his delegation regarded draft resolution A/C.6/L.969 as unacceptable. Its adoption would be liable to result in negotiations at the Diplomatic Conference on that important question starting on a wrong basis, which would be a disservice to the Conference and to the chances of obtaining agreement on the satisfactory development of humanitarian law.

47. His delegation welcomed draft resolution A/C.6/L.964. It seemed entirely appropriate in the circumstances that, in so far as the Diplomatic Conference was concerned, the General Assembly at the current session should, as proposed in operative paragraph 2,

confine itself to urging all participants in the Conference to do their utmost to reach agreement on additional rules which might help to alleviate the suffering brought by armed conflicts and to protect non-combatants and that the General Assembly should not attempt to make any judgements or declarations on the substantive issues that were to be considered by the Conference. To do otherwise might prejudice the work of the Conference. For its part, his Government would play a full and constructive role in the endeavours of the Conference to obtain agreement on generally acceptable instruments that would be a marked advance in the development of humanitarian law.

48. Mr. HAMMAD (United Arab Emirates) said that his delegation's amendment (A/C.6/L.970) to draft resolution A/C.6/L.964 was self-explanatory. It had been felt that the original text of operative paragraph 3 of the draft resolution was insufficient and would give rise to ambiguities, making it possible for parties to a conflict to allege the inapplicability of certain international humanitarian rules. There was a well-known instance of a State refusing to comply with the Geneva Conventions, without giving any reasons for that course of action. The amendment contained in document A/C.6/L.970 laid down clearly that all parties to armed conflicts were bound to comply with their obligations under the relevant humanitarian instruments. The amendment reproduced the wording of the resolution adopted by the twenty-second International Conference of the Red Cross at Teheran on 10 November 1973. It did not introduce any controversial element, and opposition to it could come only from those who did not wish to honour their obligations under such international instruments.

Mr. González Gálvez (Mexico), resumed the Chair.

49. Mr. ROSENNE (Israel) expressed appreciation to the Secretary-General for his report and for the survey prepared in compliance with General Assembly resolution 3032 (XXVII). That was a useful compilation which would be of assistance to Governments in connexion with their preparations for the forthcoming Geneva Conference. However, he agreed with those previous speakers who had pointed out that the latter document should be utilized with caution.

50. He welcomed to the Committee the representative of the Swiss Government, which had already issued invitations for the new Conference on the Reaffirmation and Development of International Humanitarian Law and undertaken a great deal of preparatory work for it, as well as the observer for ICRC and her colleagues from Geneva. He paid tribute, on behalf of his Government, to the energy and devotion to duty displayed on all occasions by the Red Cross delegates in its area, who carried out their duties, sometimes in extremely difficult and delicate circumstances, in an exemplary fashion. It should always be borne in mind that, without their conscientious work and self-sacrifice, the noble objectives of international humanitarian law would not easily be achieved.

51. At the current stage, his delegation wished to draw attention to several questions of principle prompted by the debate in the Committee, as well as

by some others in United Nations organs. Running through all those discussions, whether on general or specific issues, could be seen the confusion between the law of human rights on the one hand and international humanitarian law on the other. That was something more grave and more challenging than the somewhat artificial distinction—artificial in the contemporary era, though not in its origin—between the “law of The Hague” and the “law of Geneva”.

52. As an identifiable branch of international law, the international humanitarian law applicable in a condition of armed conflict, hostility and belligerency was relatively new. At the same time, speaking quite frankly as a representative of the Jewish State, he felt that he might quite legitimately recall with pride that the well-known *temperamenta belli*, expounded in his day by Grotius himself in book III of his *De jure belli ac pacis*, largely drew their inspiration from important doctrines and canons of behaviour set forth in the Bible, and more particularly from chapter 20 of the Book of Deuteronomy, and in other Jewish source-material. Those were the rules for tempering the horrors of war and for alleviating the human suffering always caused by armed strife.

53. The succession of debates on the current topic in the General Assembly since 1969, and the series of resolutions starting with General Assembly resolution 2597 (XXIV) and ending with resolution 3032 (XXVII), were very careful to formulate and maintain that fundamental distinction between international humanitarian law and general human rights law. The same division could be discerned in the two sessions of the Conference of Government Experts on the Reaffirmation and Development of International Humanitarian Law Applicable in Armed Conflicts convened at Geneva in 1971 and 1972 by ICRC and innumerable academic seminars and discussions, such as were listed in the Secretary-General's report. That differentiation had also, in the main, been approved by such scientific literature, *doctrine*, as had dealt with the problem.

54. International humanitarian law had its own origins. It was endowed with its own organs which had developed their own methods of work. One of the cardinal features was that the work of control and relief, designed to minimize to the greatest extent possible all unnecessary suffering in a general situation where violence ruled, was performed with the maximum of diplomatic discretion. At the same time, an extremely high degree of accuracy, objectivity and deliberate neutrality in thought and deed was required of the organisms undertaking those tasks. It was immaterial whether those neutral organisms were States or an acceptable body like ICRC. It was absolutely essential, if international humanitarian law was to serve its purpose, that those fundamental characteristics should be fully preserved and continually refined and improved.

55. The international organs which had been established to deal with general human rights, such as the Commission on Human Rights or the Committee on the Elimination of Racial Discrimination, operated on an entirely different principle. They had been set up to implement entirely different concepts, and they worked in entirely different political and social con-

ditions. Experience had shown that frequently the expert and independent quality of many members of those bodies became somewhat nominal, so that those bodies might become politically oriented organs, which, if they had not been created for that purpose, were at least exploited for propaganda purposes by mechanical majorities, firstly, within themselves and then, on the basis of what they had produced, in deliberative organs such as the General Assembly. Nor were they always careful or even concerned to protect themselves from criticism by insisting on high standards of accuracy or objectivity and of relevance in the reporting, or on the observance of accepted standards of procedure in their deliberations. Such bodies were conceptually, intellectually and diplomatically not qualified to deal with the problems and concrete issues of international humanitarian law, which, in his delegation's view, required an exceptionally high degree of diplomatic skill and sophistication.

56. It was necessary to recall and to emphasize that doctrinal aspect, partly because the very title of the current agenda item and the origins of the current debate in the Teheran Conference of 1968 might in themselves be an added cause of confusion. So long as that item had been discussed in another Main Committee of the General Assembly, the confusion had probably been inevitable, but its transfer the previous year to the Sixth Committee had inspired a certain confidence that a greater degree of intellectual discipline might be anticipated and that the emphasis would remain where it should always be placed, namely on the alleviation of the suffering brought about by armed conflicts.

57. At the current juncture, he would confine himself, in his comments on the draft Protocols to be submitted to the Diplomatic Conference, to stating that his delegation could, generally speaking, support them, although it naturally reserved its right to discuss each thesis and proposition more specifically and to present its own proposals as necessary at the Diplomatic Conference.

58. He wished to draw attention to one aspect of resolution II adopted by the twenty-second International Conference of the Red Cross (see A/9123/Add.2, annex, sect. II), namely the suggestion that the Diplomatic Conference should introduce the appropriate provisions to strengthen the role and facilitate the humanitarian activities of National Societies and of their Federation on behalf of victims of armed conflict. The reference was, of course, to National Red Cross Societies and their equivalents, which existed in every country of the world, sometimes under other appropriate names, some of which were mentioned in the first preambular paragraph of the resolution. Obviously, that was an appropriate and progressive development. It needed, however, to be matched by the removal of all arbitrary and artificial restrictions standing in the way of formal recognition by the appropriate Red Cross authorities of National Societies which in fact fulfilled all the conditions laid down, where the absence of recognition was founded on a narrow and extremely pedantic interpretation, taking no account of the letter and spirit of the law,

of the national communities and States in which the societies operated or of the real objectives being pursued. He was referring to the scandalous non-recognition by the Red Cross authorities of the Red Shield of David Society, the National Society of Israel, and the heartless attempt by those concerned to force upon Israel a symbol which was not that of the Jews and which had for them unacceptable connotations. So long as his country's National Society was deprived of the recognition which was its due and was thus prevented from the full implementation of its humanitarian objectives, there would remain a hollow ring to the protestations of universality and objectivity inherent in the resolution he had cited and the premises on which it was based. As his country's representatives had indicated in the Conference of Government Experts held at Geneva and more recently at the International Conference of the Red Cross held at Teheran, they would not rest until the Red Shield of David and its Society attained the recognition and status of equality with other symbols and societies that were their right, and his delegation reserved its position entirely on all those aspects of the question.

59. His delegation believed that the time had come to give thought to some of the practical questions connected with the day-to-day application of the Geneva Conventions. That must be facilitated. The question of the diffusion of knowledge of the Geneva Conventions was already actively engaging the attention of the responsible authorities, and that must be encouraged. As the Israeli representative had pointed out recently at Teheran, Israel had had bitter experiences of modern war being forced upon it, four times during the past 25 years, and it had learned to appreciate the importance of the Conventions and some of the practical problems which their application in conditions of armed conflict entailed, especially for those on active service.

60. It should also be borne in mind that those who had to apply those legal instruments were frequently themselves, by definition, not experts in international law. The number of legal instruments to be applied must therefore be kept as low as possible and their text rendered as simple as possible. There were currently four instruments, and when the Diplomatic Conference was over, their number would presumably rise to six. That would not make their implementation any easier.

61. That the issue under discussion was not an academic or perfectionist matter could be seen from certain incidents involving Israeli prisoners of war taken in the recent conflict, and he drew attention, in that connexion, to the horrors which the recent war in the Middle East had wrought for all the population of the area and to the urgent necessity to prevent all unnecessary suffering in that situation of armed conflict. Despite repeated appeals by ICRC to all the parties concerned scrupulously to observe the provisions of the Geneva Conventions, the Convention of 12 August 1949, relative to the treatment of prisoners of war, had been tragically breached in a most disgraceful and cynical way. Some of the more salient

of the obligations placed upon the parties to the Convention were: immediately to forward information relating to prisoners of war to the Powers concerned, so that the next of kin might be advised of their state without delay (article 122); to enable a prisoner of war immediately upon capture or not more than a week thereafter to write to his family and to the Central Prisoners of War Agency (article 70); to permit visits and reports by ICRC delegates (article 126); to repatriate the seriously wounded and seriously sick prisoners of war (articles 109 and 110); at all times to treat prisoners of war humanely, so that they were not subjected to acts of violence, intimidation, insults or public curiosity (article 13); to relieve and repatriate without delay all prisoners of war after the cessation of active hostilities (article 118). In that latter connexion, he recalled that, as was clear from the proceedings of the 1747th meeting of the Security Council held on 21 October 1973, the immediate exchange of all prisoners of war was one of the bases for Security Council resolution 338 (1973) on the cease-fire.

62. He regretted to report that, in the case of one of Israel's opponents, namely Syria, those obligations had not been and were not being fulfilled. No lists of or messages from prisoners of war had been communicated to the Israelis, causing cruel and heartless suffering and anxiety to their families in Israel. That anxiety was increased by the fate of earlier Israeli prisoners of war in the hands of that country. No visits by ICRC delegates had yet been permitted. None of the seriously wounded and sick had been repatriated. Israel had ample evidence that some of the Israeli prisoners of war in Syrian hands had been brutally murdered and mutilated. On 10 November 1973, Israel had submitted a formal complaint to ICRC at Geneva concerning the barbaric and disgusting crimes and the grave violations of the Convention concerning prisoners perpetrated by the Syrian army, and on 22 November, Israel had found it necessary to bring that also to the attention of the Secretary-General and ask him to circulate the complaint to the General Assembly. The full text could be found in document A/9333. The details contained in it were grisly and abhorrent. Israel was demanding that every measure should be taken to guarantee the health, welfare and honour of the Israeli prisoners of war held captive in Syria, as the Geneva Convention required, and that that attempt to exploit human misery to extort political advantages should be stopped and condemned.

63. It was important that the Committee—and after it the Diplomatic Conference—should always keep in mind the fact that it was not engaged upon any mere abstract legislative exercise but that its work took place against a background of harsh, cruel and callous reality. With regard to the draft resolutions before the Committee, his delegation felt that the rights and obligations of Governments were laid down in the relevant international instruments and that no draft resolution adopted by the Committee could affect any of those obligations in any way. His delegation could support draft resolution A/C.6/L.964 as a whole, as submitted by the sponsors, but that did not imply

any change in its attitude with regard to the juridical issues raised by the relevant international instruments, including decisions of the General Assembly.

64. In accordance with his delegation's position as set forth at the Teheran Conference, it could not accept the amendment contained in document A/C.6/L.966 and the subamendments in document A/C.6/L.968. If they were adopted, his delegation would have to reconsider its position on draft resolution A/C.6/L.964 as a whole. It followed that his delegation could not support draft resolution A/C.6/L.969, nor could it recognize such a document as relevant to the application and interpretation of the international legal instruments to which Israel was a party.

65. Mr. BAILEY (Australia) expressed his delegation's appreciation to those delegations which had contributed so substantially during the current debate to the general discussion on such a complex and varied topic. He also expressed appreciation to the Secretariat for its valuable work in preparing the reports contained in documents A/9123 and Corr.1 and Add.1 and 2 and A/9215, which provided, in concise form, useful summaries of recent developments in that field.

66. His Government had been encouraged by the progress made in the field of human rights, particularly since 1968, at which time the International Conference on Human Rights had requested the General Assembly in resolution XXIII to invite the Secretary-General to study certain aspects of international conventions on humanitarian law. That request had marked the increased and fruitful involvement of the United Nations in discussions of humanitarian law and the laws of war.

67. His delegation was doubly encouraged by the continuing activities of ICRC. Its work in organizing a series of meetings of experts during the first half of 1973 had been a useful step in the harmonization of divergent views expressed on a number of issues at the previous sessions of the Conference of Experts in 1971 and 1972. Its facilitation of the task of the Consultative Group, which had met in January and March 1973 to examine, *inter alia*, questions relating to guerrilla warfare, protection of civilian populations, the system of Protecting Powers and the scope of the draft Protocol relating to non-international armed conflicts was similarly useful. Of even greater significance was its work in providing the basis for discussions for the recently concluded twenty-second Conference of ICRC at Teheran. In that connexion, he cited in particular the Conference's consideration of the two draft Additional Protocols to the 1949 Geneva Conventions, the discussion of which had prepared the way for the deliberations of the forthcoming Diplomatic Conference in 1974. While his delegation endorsed the view expressed at Teheran that the forthcoming Diplomatic Conference must represent a first step, to be followed up by specifically directed and consistent efforts to develop the rules of international humanitarian law, it nevertheless expected that, with the groundwork laid by ICRC and other bodies, it would, of itself, achieve tangible progress. With regard to

the crucial follow-up to the Diplomatic Conference and to the work currently in progress in other concerned bodies, his Government maintained its belief that the most appropriate forum at the current stage was ICRC itself. While it anticipated that the Sixth Committee and other United Nations organs would continue to make valuable contributions in that field, it felt that ICRC could carry out its work in an atmosphere most conducive to generally practical and acceptable conclusions, both through its marshalling of expertise and its proven ability to bring together the representatives of Governments in fruitful consultations.

68. His delegation commended to the Committee draft resolution A/C.6/L.964, of which it had become a sponsor and wished, in particular, to be associated with its expression of appreciation to the Swiss Federal Council for its convocation of the Diplomatic Conference and to ICRC for its work on the draft Additional Protocols. His delegation joined in the call made in the draft resolution to all participants in the Diplomatic Conference to do their utmost to ensure success in its urgent task.

69. With regard to the Kenyan amendment (A/C.6/L.966) and the Indonesian subamendments (A/C.6/L.968), his delegation shared the view that the widest practicable range of concerned bodies and individuals should take a part in the general movement towards the formulation of international humanitarian law. However, the Conference should not waste its time in deciding on the point at which national liberation movements should be invited to participate in the Conference as observers. Such a situation could be avoided if the task of issuing invitations was left to the Swiss Government, as would be the case if the Kenyan amendment was adopted. Accordingly, his delegation could support that amendment and the Indonesian subamendments. However, it felt strongly that, in the Kenyan amendment, the words "in accordance with the practice of the United Nations" should be placed at the end of new operative paragraph 2, and he formally proposed that subamendment. As currently worded, that amendment seemed to imply that the phrase "in accordance with the practice of the United Nations" governed the word "invitation". On 27 September 1972 the Fourth Committee had decided to invite leaders of national liberation movements of colonial territories in Africa that were recognized by the Organization of African Unity to participate as observers in the Committee's proceedings where they related to the territories in question. That seemed to be the sum total of United Nations experience in the matter. It was questionable whether the Conference could be regarded as constituting proceedings relating specifically to those territories. The Australian subamendment was designed to obviate difficulties that such implications might raise for the Swiss Government when issuing invitations.

70. His delegation had no difficulty in supporting the amendment submitted by the United Arab Emirates (A/C.6/L.970). However, it was not attracted to the idea contained in draft resolution A/C.6/L.969, which

sought to direct the Conference to formulate specific rules for wars of national liberation. He felt that the second draft Additional Protocol would cover the questions relating to wars of national liberation, so that draft resolution A/C.6/L.969 was actually unnecessary.

71. The CHAIRMAN announced that India had become a sponsor of draft resolution A/C.6/L.964 and that Burundi, Dahomey and the Sudan had become sponsors of draft resolution A/C.6/L.969.

The meeting rose at 1.10 p.m.

1454th meeting

Tuesday, 4 December 1973, at 4 p.m.

Chairman: Mr. Sergio GONZÁLEZ GÁLVEZ (Mexico).

A/C.6/SR.1454

AGENDA ITEM 96

Respect for human rights in armed conflicts: report of the Secretary-General (*continued*) (A/9123 and Corr.1 and Add.1 and 2, A/9215, A/C.6/L.964, A/C.6/L.966/Rev.1, A/C.6/L.968-971)

1. Mr. AL-MASRI (Syrian Arab Republic) said that in spite of the efforts made by the United Nations and the International Committee of the Red Cross (ICRC) with a view to ensuring better protection of civilians in time of war, the colonialist, imperialist, Zionist and racist forces continued to ignore humanitarian conventions and international law, thereby causing great suffering to innocent people. The international community had hoped that the twenty-fifth anniversary of the Universal Declaration of Human Rights would be marked by the strict observance of the principles of the Declaration and that some progress would be made towards ensuring better application of the existing humanitarian rules, towards better protection of civilians and prisoners in armed conflict and towards limitation or prohibition of the use of certain means and methods of warfare. Instead, the world had witnessed an escalation of violations of human rights by the aggressive forces, from which the peoples struggling for their independence and liberation were suffering. It was therefore necessary and urgent, not only to condemn those acts, but also to take decisive measures to prevent them. No one could forget the crimes committed by the Israeli armed forces in Palestine, or against the refugee camps since 1948; the Palestinian people had been subjected to all sorts of crimes against humanity and tens of thousands of men, women and children had been slaughtered or evicted from their homes. No one could overlook the Israeli practices which affected the human rights of the innocent population of the occupied Arab territories since 1967. Those people were subjected to collective punishment, reprisals, transfer, eviction and mass arrests; their properties had been destroyed and settlements had been established on Arab land expropriated by the occupying authorities.

2. Quite recently, the world had witnessed the most savage air raids against Damascus and many other cities during the latest aggressive expansionist war launched by Israel against the Syrian Arab Republic and Egypt; those attacks had caused a large number of casualties among civilians and had cost the lives of

a member of the United Nations Truce Supervision Organization in Palestine, his wife and daughter, and the wife of an employee of the United Nations Food and Agriculture Organization. Among the cruel weapons used by the Israeli Air Force against those persons were incendiary and fragmentation weapons, flechette warheads and delayed action weapons, whose purpose was to create an atmosphere of terror among civilians.

3. His delegation wished to reiterate that greater attention should be paid to the question of prohibition and limitation of certain means and methods of warfare, and to the question of the treatment of members of resistance movements and freedom fighters. The prohibition of the use of the above-mentioned weapons and of biological, bacteriological and chemical weapons should be considered as one of the most important aspects of the item under consideration. It was regrettable that since the International Conference on Human Rights at Teheran in 1968, which had emphasized the need to take steps to ensure a better application of humanitarian conventions and rules in armed conflicts, the need to prepare a new humanitarian international convention and appropriate legal instruments to ensure the better protection of civilians and prisoners of war and the need to limit the use of certain means and methods of warfare, no positive progress had been made in that field. The ICRC had, however, made great efforts with regard to the protection of the rights of combatants in conflicts which arose from the struggle for liberation and self-determination, the protection and treatment of combatants in international and non-international armed conflicts and the question of the preparation of adequate rules on guerrilla warfare. It was high time for the world community to speed up its work so that all persons participating in resistance movements and all freedom fighters would, in case of arrest, be treated as prisoners of war in accordance with the principles of the Convention of The Hague of 1907 and the Geneva Convention relative to the Treatment of Prisoners of War of 1949. In the occupied Arab territories, the occupying Israeli authorities had refused and continued to refuse to recognize the applicability of the Geneva Convention relative to the Protection of Civilian Persons in Time of War of 1949 in those territories and had continued their practices which constituted flagrant violations, not only of all international humanitarian conventions, but also of the Charter of the United Nations itself. In