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RESPECT FOR HUMAN RIGHTS IN ARMED CONFLICTS

Report of the Secretary-General

Addendum

1. The present addendum contains information concerning relevant developments on human rights in armed conflicts during the twenty-second International Conference of the Red Cross.
2. The Conference was held at Teheran from 8 to 15 November 1973. At its plenary meetings, held on 14 and 15 November, the Conference adopted a number of resolutions on the basis of reports submitted to it by its three main commissions: the General Commission, the Commission on International Humanitarian Law and the Commission on Community Services. Of those resolutions, the ones adopted on the report of the Commission on International Humanitarian Law are the most relevant to the consideration of agenda item 96. Their full text is given below in an annex, following a brief account of the proceedings of the Commission leading to their adoption.
3. The Commission on International Humanitarian Law held seven meetings between 8 and 12 November 1973, under the chairmanship of Mr. J. S. Pictet, Vice-President of the International Committee of the Red Cross (ICRC). In addition to the election of officers, the agenda of the Commission included the following items: (a) report on the action taken on the resolutions of the twenty-first Conference; (b) implementation and dissemination of the Geneva Conventions; 1/ and (c) reaffirmation and development of international humanitarian law applicable in armed conflicts.
4. The report on the action taken on the resolutions of the twenty-first Conference did not give rise to any discussion. The debate centred therefore on the two remaining items.
5. In connexion with the item on the implementation and dissemination of the

1/ United Nations, Treaty Series, vol. 75, Nos. 970-973.

Geneva Conventions, the Commission had before it a report submitted by the ICRC containing 35 replies received from Governments of States parties to the Geneva Conventions, 59 replies from National Societies and a description of the action recently undertaken by ICRC. Following a debate during which several delegates reported on the action taken by their Governments or National Societies with a view to a wider dissemination of the Geneva Conventions, the Commission considered a draft resolution submitted by a number of National Societies. A revised text of the draft resolution, incorporating several of the amendments moved to the original text during the debate, was adopted unanimously by the Commission (resolution I).

6. In connexion with the item on reaffirmation and development of international humanitarian law applicable in armed conflicts, the Commission had before it the two Draft Additional Protocols to the Geneva Conventions of 12 August 1949 <sup>2/</sup> prepared under the auspices of the ICRC for submission to the Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law Applicable in Armed Conflicts, to be convened by the Swiss Government in February 1974 at Geneva. The Commission also had before it several draft resolutions concerning aspects of the work of the forthcoming Diplomatic Conference, the draft Protocols as a whole and the question of the prohibition or restriction of the use of certain weapons. In addition, several delegations submitted concrete amendments to the text of articles of both draft Protocols. The Commission decided that the draft amendments to the articles would not be put to the vote but would be transmitted to the Diplomatic Conference in a report to be prepared by ICRC, which would also contain a detailed account of the views expressed thereon during the debate.

7. During the general discussion on the item ICRC was commended for the considerable work they had carried out which constituted a useful basis for discussion at the Conference. Tribute was also paid to the United Nations for its valuable work on respect for human rights in armed conflict. Appreciation was likewise expressed to Switzerland for convening the Diplomatic Conference.

8. In the course of the debate, the Commissioner General of the Diplomatic Conference emphasized the desirability that, having in mind the principle of universality in international humanitarian law, as many States as possible would take part in the Conference. It was generally agreed that the universal, or virtually universal, acceptance of the two Protocols was essential if real success and progress were to be achieved in protecting human rights in the event of armed conflict. In this connexion, the view was expressed that the Diplomatic Conference was only an initial stage, and that it was now necessary to give thought to the efforts to be made in order subsequently to develop the rules of international humanitarian law. More specifically, stress was placed on the need to reproduce the Martens clause in the text of the Protocols.

9. In addition, the general debate centred around the following main subjects: (a) reinforcement of the application of the Geneva Conventions; (b) a new category of prisoners of war; (c) the struggle of peoples for freedom and self-determination.

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<sup>2/</sup> International Committee of the Red Cross (Geneva, June 1973).

(d) strengthening of the protection of the civilian population; (e) non-international armed conflicts; (f) strengthening of the role of National Societies and the League; and (g) the prohibition or restriction of the use of certain weapons.

10. The discussion concerning the prohibition or restriction of the use of certain weapons was summarized in the report of the Commission on International Humanitarian Law in the following manner:

"Recalling work recently undertaken in this field, in particular the report of the United Nations Secretary-General on Napalm and other incendiary weapons and all aspects of their possible use 3/ and the report entitled "Weapons That May Cause Unnecessary Suffering or Have Indiscriminate Effects" 4/ prepared by a group of experts under the sponsorship of the ICRC, one delegate expressed the view, shared by others, that the Diplomatic Conference ought to study this matter. Some, however, considered that the question, which still required detailed examination, should be dealt with either within the general framework of disarmament or by a conference of government experts and only submitted later to a diplomatic conference convened for that purpose.

"It was maintained that the historical distinction between the law of The Hague and the law of Geneva could no longer be upheld since both draft Protocols contained a number of rules drawn from the law of The Hague. Moreover, it was shown that the prohibition or limitation of certain weapons was particularly urgent if the civilian population and combatants were to be protected. This clearly demonstrates the humanitarian value of the study.

"Many delegates recognized the importance of the proposed study and offered to support it provided it would not hold up the work of the Diplomatic Conference, that is to say, the adoption of the two Protocols proposed by the ICRC. Some considered that the prohibition or limitation of the use of certain weapons could be more suitably inserted in a separate legal instrument which - if necessary - could take the form of a third Protocol."

11. At the conclusion of the debate, the Commission adopted two resolutions (resolutions II and IV) on aspects of the reaffirmation and development of international humanitarian law applicable in armed conflict and one (resolution III) on the prohibition or restriction of the use of certain weapons.

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3/ United Nations publication, Sales No.: E.73.I.3.

4/ International Committee of the Red Cross (Geneva, 1973).

ANNEX

Resolutions adopted by the Conference on the basis of the  
report submitted by the Commission on International  
Humanitarian Law

I. Implementation and dissemination of the Geneva Convention

The XXIIInd International Conference of the Red Cross,

Convinced that, in a world torn by violence, there is a pressing need for a widespread dissemination of an instruction in the Geneva Conventions, as an expression of basic Red Cross principles, and hence a factor for peace,

Being aware that, owing to its educational nature, such dissemination and instruction is particularly important among the armed forces and youth,

Recalling the resolutions on the subject of dissemination adopted by previous International Conferences of the Red Cross and in particular resolution XXI of the XXth International Conference, held at Vienna in 1965,

Noting with gratification the work already accomplished in the dissemination of the Geneva Conventions by some Governments, numerous National Societies and the ICRC,

Calls upon Governments and National Societies to intensify their efforts with a view, on the one hand, to making known the basic principles of the Red Cross and international humanitarian law by all effective means available to competent authorities at all levels, to the population as a whole, and on the other hand, imparting clear concepts regarding the Geneva Conventions in specialized spheres such as the armed forces, civil administrations, institutes of higher learning, the medical and para-medical profession, etc.,

Appeals to Governments and National Societies to inform the ICRC regularly of their achievements and their projects, in order that it may centralize all information on the dissemination of and instruction in, the Geneva Conventions in the world,

Requests the ICRC to support the efforts of Governments and National Societies in their dissemination of and instruction in the Geneva Conventions by:

(a) Preparing information material suited to the spheres and areas it is proposed to reach (specialized and popular publications in various languages, posters, slides and films);

(b) Advising National Societies who may wish it regarding the establishment of their plans of action in this field;

(c) Systematically making the achievements of Governments and National Societies in the dissemination of, and the instruction in, the Geneva Conventions known in its reports and publications;

(d) Itself organizing, or participating in, seminars for the training of specialists in international humanitarian law;

Asks the ICRC also to examine the desirability and possibility of convening an ad hoc Conference on dissemination and instruction of the Geneva Conventions which would enable Governments and National Societies to compare their respective experiences and devise new methods of action,

Requests Governments and National Societies to co-operate fully with the ICRC in its efforts to bring about wider dissemination of, and effective instruction in, the Geneva Conventions,

Thanks the ICRC for its action, since the XXIst International Conference, in giving the dissemination of, and instruction in, the Geneva Conventions a fresh impetus and for the support it has lent National Societies and Governments.

## II. Reaffirmation and Development of International Humanitarian Law applicable in Armed Conflicts

### The XXIIInd International Conference of the Red Cross,

Having received the views of the Board of Governors of the League, which held its XXXIInd session in Teheran in November 1973, to the effect that the two Draft Additional Protocols to the Geneva Conventions do not make sufficient reference to the role which must fall to National Red Cross, Red Crescent and Red Lion and Sun Societies as well as to their Federation in humanitarian activities for armed conflict victims,

Having examined the two Draft Additional Protocols and taken note of the comments made during the debates,

Requests the Diplomatic Conference, to be held in Geneva in 1974, to introduce the appropriate provisions to strengthen the role and facilitate the humanitarian activities of National Societies and of their Federation, for example by adding

(1) A general provision inviting the parties to a conflict to grant National Societies all the means and help required to enable them to carry out all their humanitarian activities on behalf of the victims of armed conflicts;

(2) Special provisions covering the personnel, services and programmes National Societies are in a position to provide in order to make sure that the objectives of the Geneva Conventions and of the Protocols are attained.

III. Prohibition or restriction of use of certain weapons

The XXIIInd International Conference of the Red Cross,

Recalling that the right of parties to a conflict to adopt means of injuring the enemy is not unlimited,

Recalling, in particular, those rules of international law which prohibit the use of arms, projectiles or material likely to cause unnecessary suffering and those rules of international law which require the protection of civilians,

Confirming the resolution XXVIII adopted by the International Conferences of the Red Cross in Vienna (1965) and resolution XIV in Istanbul (1969),

Confirming the views expressed by the International Conferences of the Red Cross in resolution XXVIII (1965) regarding the Protection of Civilian Populations against the Dangers of Indiscriminate Warfare, and resolution XIV (1969) regarding Weapons of Mass Destruction, by the International Conference on Human Rights in Teheran in resolution XXIII (1968) regarding Human Rights in Armed Conflicts and by the United Nations General Assembly in resolution 2932 (XXVII) (1972) regarding napalm and other incendiary weapons,

Endorsing, in particular, the view expressed in 1972 by the United Nations General Assembly in resolution 2932 (XXVII) that the widespread use of many weapons and the emergence of new methods of warfare that cause unnecessary suffering or are indiscriminate call urgently for renewed efforts by Governments to seek, through legal means, the prohibition on restriction of the use of such weapons and of indiscriminate and cruel methods of warfare and, if possible, through measures of disarmament and the elimination of specific, especially cruel or indiscriminate weapons,

Noting that consistent with its work for the reaffirmation and development of humanitarian law the ICRC has continued to devote attention to the question of weapons which may cause unnecessary suffering or have indiscriminate effects,

Welcomes the proposals which the ICRC is submitting to the Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law Applicable in Armed Conflicts for rules concerning the prohibition of use of weapons which are likely to cause unnecessary suffering and methods and means of combat which have indiscriminate effects,

Welcomes further, the factual report elaborated by an international group of experts under the auspices of the ICRC on Weapons That May Cause Unnecessary Suffering or Have Indiscriminate Effects, covering, inter alia, high velocity projectiles, blast and fragmentation weapons, time-delay weapons and napalm and other incendiary weapons,

Endorses the conclusion of the report that intergovernmental review and action is called for regarding specific types of weapons treated in the report,

Urges the Diplomatic Conference - without prejudice to its work on the two draft protocols submitted by the ICRC - to begin consideration at its 1974 session of the question of the prohibition or restriction of use of conventional weapons which may cause unnecessary suffering or have indiscriminate effects,

Invites the ICRC to call in 1974 a conference of government experts to study in depth the question of prohibition or restriction of use of conventional weapons which may cause unnecessary suffering or have indiscriminate effects and to transmit a report on the work of the conference to all Governments participating in the Diplomatic Conference with a view to assisting them in their further deliberations.

IV. Reaffirmation and Development of International Humanitarian Law applicable in Armed Conflicts

The XXIInd International Conference of the Red Cross,

Conscious that armed conflicts continue to cause untold human suffering and material devastation,

Convinced that the parties to all such conflicts need humanitarian rules designed to reduce the suffering as much as possible and to increase in the same way the protection of non-combatants and civilian objects,

Aware that many modern means and methods of warfare have added to the need for a reaffirmation and development of the present laws and customs applicable in armed conflicts,

Confirming the dedication to these questions of the International Conferences of the Red Cross,

Recalling, in particular, resolution XIII of the XXIst International Conference of the Red Cross,

Noting, also, the successive resolutions adopted by the General Assembly of the United Nations on the item "Human Rights in Armed Conflicts", the latest being resolution 3032 (XXVII), adopted on 18 December 1972,

Welcoming the Draft Additional Protocols to the Geneva Conventions of 1949, prepared by the ICRC after thorough consultations with government experts, particularly during conferences in Geneva in 1971 and 1972,

Welcoming further, the report presented by the ICRC on Weapons That May Cause Unnecessary Suffering or Have Indiscriminate Effects,

Welcoming the decision of the Swiss Federal Council to convoke a diplomatic conference for the purpose of reaffirming and developing international humanitarian law applicable in armed conflicts,

Considering that the Draft Additional Protocols offer an excellent basis for discussion at the diplomatic conference,

Expresses appreciation to the ICRC for the extensive work it has performed,

Urges all Governments to participate in the Diplomatic Conference,

Urges the Diplomatic Conference to consider inviting national liberation movements recognized by regional intergovernmental organizations to participate in its work as observers in accordance with United Nations practice,

Appeals to all Governments to recognize their own long-term interests in humanitarian rules, which respond to the urgent needs to alleviate the suffering brought by modern armed conflicts and the need to protect non-combatants in such conflicts and, for this purpose, to make use of this diplomatic conference to achieve substantial humanitarian gains,

Appeals to all the participants at the Diplomatic Conference to be held in Geneva to do all in their power by co-operation and fruitful negotiations to secure the widest and swiftest adoption of the two Additional Protocols to the Geneva Conventions of 1949, as instruments of international humanitarian law effective on a universal basis.

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