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RESPECT FOR HUMAN RIGHTS IN ARMED CONFLICTS

REPORT OF THE ECONOMIC AND SOCIAL COUNCIL
/CHAPTER V (SECTION D, PARAGRAPH 493)/

Report of the Sixth Committee

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I. INTRODUCTION

1. At its 2236th plenary meeting, on 21 September 1974, the General Assembly included in the agenda of its twenty-ninth session the items entitled "Respect for human rights in armed conflicts: report of the Secretary-General" (item 92) and "Report of the Economic and Social Council" (item 12). The same day, at its 2237th plenary meeting, the Assembly decided to allocate item 92 and chapter V (section D, para. 493) of item 12 to the Sixth Committee.
2. Both questions were considered together by the Sixth Committee at its 1517th and 1519th meetings, on 5 and 6 December, respectively. The summary records of these meetings (A/C.6/SR.1517 and 1519) contain the views of representatives who spoke during the consideration of both items.
3. In connexion with item 92, the Sixth Committee had before it a report of the Secretary-General on relevant developments concerning human rights in armed conflicts (A/9669 and Add.1) submitted pursuant to paragraph 7 of General Assembly resolution 3102 (XXVIII) of 12 December 1973. 1/
4. In accordance with the terms of the request, the main body of that report gave a detailed account of the proceedings and results of the first session of the Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law Applicable in Armed Conflicts, convened by the Swiss Federal Council at Geneva from 20 February to 29 March 1974. In doing so, the Swiss Federal Council, depositary of the Geneva Humanitarian Conventions, continued the traditional role of Switzerland in the international humanitarian law field.
5. The Diplomatic Conference was entrusted with the task of examining two draft Additional Protocols to the Geneva Conventions for the Protection of War Victims of 12 August 1949, namely the draft Additional Protocol relating to the protection of victims of international armed conflicts (Protocol I) and the draft Additional Protocol relating to the protection of victims of non-international armed conflicts (Protocol II), 2/ prepared by the International Committee of the Red Cross after thorough consultations with government experts 3/ as well as bearing in mind other developments, particularly in the United Nations General Assembly. The Diplomatic Conference considered likewise the question of the prohibition or restriction of the use of specific conventional weapons which may cause unnecessary suffering or have indiscriminate effects, in accordance with General Assembly resolution 3076 (XXVIII)

1/ Adopted on the recommendation of the Sixth Committee.

2/ For the text of the draft Additional Protocols and related commentaries, see documents of the Diplomatic Conference CDDH/1 and CDDH/3.

3/ Conference of Government Experts on the Reaffirmation and Development of International Humanitarian Law Applicable in Armed Conflicts, convened in 1971 and 1972 by the International Committee of the Red Cross. The proceedings of this Conference, where the Secretary-General was represented, have been summarized in earlier reports of the Secretary-General to the General Assembly (A/8370 and Add.1 and A/8781 and Corr.1).

of 6 December 1973 ^{4/} and with resolution XIV adopted by the twenty-second International Conference of the Red Cross, held at Teheran in November 1973. The General Assembly, in resolution 3058 (XXVIII) of 2 November 1973, ^{5/} also invited the Diplomatic Conference to submit its comments and advice regarding the draft articles on the protection of journalists engaged in dangerous missions in areas of armed conflict.

6. The proceedings and results of the first session of the Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law Applicable in Armed Conflicts were described in the report submitted by the Secretary-General as follows: Introduction (chapter I); Organization of the Diplomatic Conference (chapter II); General debate in plenary (chapter III); Work of Committee I: Provisions of general character (chapter IV); Work of Committee II: Wounded, sick and shipwrecked persons, Civil defence, Relief (chapter V); Work of Committee III: Civilian population, Methods and means of combat, New category of prisoners of war (chapter VI); Work of the Ad Hoc Committee on conventional weapons (chapter VII); Decisions taken by the Diplomatic Conference at the closing of its first session (chapter VIII); Place and date of the second session of the Diplomatic Conference (chapter IX). In preparing the report special attention had been given to matters having or presenting a particular interest for the United Nations. An annex reproduced the text of the articles of the draft Additional Protocols considered at the 1974 session of the Diplomatic Conference and listed the proposals and amendments relating to those provisions.

7. An addendum to the report (A/9669/Add.1) summarized information concerning activities of non-governmental bodies, which have manifested their specific interest in various problems relating to respect for human rights in armed conflicts, received by the Secretary-General subsequent to the adoption of resolution 3102 (XXVIII), namely information communicated by the International Committee of the Red Cross, the League of Red Cross Societies, the International Confederation of Former Prisoners of War, the World Veterans Federation, and the International Institute of Humanitarian Law (San Remo). The information communicated by the International Committee of the Red Cross concerned the Conference of Government Experts on the Use of Certain Conventional Weapons, convened under the auspices of the Committee at Lucerne, Switzerland, from 24 September to 18 October 1974. ^{6/}

8. Paragraph 493 of the report of the Economic and Social Council on the work of its fifty-sixth and fifty-seventh sessions ^{7/} related to resolution 1861 (LVI) adopted by the Council at its 1897th plenary meeting, on 16 May 1974, recommending

^{4/} Adopted on the recommendation of the First Committee.

^{5/} Adopted on the recommendation of the Third Committee.

^{6/} See "Report on the Work of the Conference of Government Experts on the Use of Certain Conventional Weapons (Lucerne, 24.9-18.10.1974)", published by the International Committee of the Red Cross.

^{7/} Official Records of the General Assembly, Twenty-ninth Session, Supplement No. 3 (A/9603).

to the General Assembly the adoption of a draft resolution containing a declaration on the protection of women and children in emergency and armed conflict in the struggle for peace, self-determination, national liberation and independence. ^{8/} The corresponding draft resolution was submitted to the Economic and Social Council by the Commission on the Status of Women.

9. At its 1447th meeting, on 26 November 1973, the Sixth Committee decided to invite the representative of Switzerland, convening and host country of the Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law Applicable in Armed Conflicts, to take part in the debate of the Sixth Committee on the item entitled "Respect for human rights in armed conflicts". In accordance with that decision, the representative of Switzerland was invited to take part in the Sixth Committee's debate on that item at the current session of the General Assembly on the same conditions as those of the year before.

II. PROPOSALS

(a) Respect for human rights in armed conflicts

10. Austria, Canada, Cyprus, Egypt, Finland, Kenya, Liberia, Mali, Mexico, Nigeria, New Zealand, Norway, Pakistan, Sweden and Yugoslavia submitted a draft resolution (A/C.6/L.1006). The draft resolution, which was introduced by the representative of Kenya at the 1517th meeting, on 5 December, read as follows:

"The General Assembly,

"Conscious that a better application of existing humanitarian rules relating to armed conflicts and development of further rules remains an urgent task in order to reduce the suffering brought by all such conflicts,

"Recalling the successive resolutions adopted in the preceding years by the United Nations relating to human rights in armed conflicts and the debates on this subject,

"Noting the report of the Secretary-General ^{9/} on the first session of the Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law Applicable in Armed Conflicts, Geneva, 20 February-29 March 1974, and on the Conference of Government Experts convoked by the International Committee of the Red Cross on the use of certain conventional weapons, Lucerne, 24 September-18 October 1974,

"Welcoming the decision by the Diplomatic Conference to invite national liberation movements recognized by the regional intergovernmental organizations concerned, to participate in its work,

^{8/} For the action taken by the Council, see ibid., para. 505 (d).

^{9/} A/9669 and Add.1.

"Welcoming the work of the first session of the Diplomatic Conference and the work of the Conference of Government Experts,

"1. Expresses its appreciation to the Swiss Federal Council for convoking the second session of the Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law Applicable in Armed Conflicts in 1975 and to the International Committee of the Red Cross for its readiness to convoke in 1975 another Conference of Government Experts on the use of certain conventional weapons;

"2. Urges all participants in the Diplomatic Conference to do their utmost to reach agreement on additional rules which may help to alleviate the suffering brought by armed conflicts and to respect and to protect non-combatants and civilian objects in such conflicts;

"3. Calls upon all parties to armed conflicts to acknowledge and to comply with their obligations under the humanitarian instruments and to observe the international humanitarian rules which are applicable, in particular the Hague Conventions of 1899 and 1907, the Geneva Protocol of 1925 and the Geneva Conventions of 1949;

"4. Requests the Secretary-General to report to the General Assembly at its thirtieth session on relevant developments concerning human rights in armed conflicts, in particular on the proceedings and results of the 1975 session of the Diplomatic Conference;

"5. Decides to include in the provisional agenda of its thirtieth session the item entitled 'Respect for human rights in armed conflicts' and emphasizes the need to allocate adequate time during the session to consider the results of both sessions of the Diplomatic Conference on International Humanitarian Law Applicable in Armed Conflicts."

11. The Committee had before it a statement submitted by the Secretary-General (A/C.6/L.1007) on the administrative and financial implications of operative paragraph 4 of draft resolution A/C.6/L.1006.

(b) Report of the Economic and Social Council /chapter V (section D, para. 493)/

12. The text of resolution 1861 (LVI) adopted by the Economic and Social Council at its 1897th plenary meeting on 16 May 1974, reproduced for the convenience of delegations in document A/C.6/L.1009, read as follows:

Protection of women and children in emergency and armed conflict
in the struggle for peace, self-determination, national liberation
and independence

"The Economic and Social Council

"Recommends to the General Assembly the adoption of the following draft

/...

resolution containing a declaration on the protection of women and children in emergency and armed conflict in the struggle for peace, self-determination, national liberation and independence:

'The General Assembly,

'Expressing its deep concern over the sufferings of women and children belonging to the civilian population who in periods of emergency and armed conflict in the struggle for peace, self-determination, national liberation and independence are too often the victims of inhuman acts and consequently suffer serious harm,

'Aware of the suffering of women and children in many areas of the world, especially in those areas subject to suppression, aggression, colonialism, racism, alien domination and foreign subjugation,

'Deeply concerned by the fact that, despite general and unequivocal condemnation, colonialism, racism, alien and foreign domination continue to subject many peoples under their yoke, cruelly suppressing the national liberation movements and inflicting heavy losses and incalculable sufferings on the populations under their domination, including women and children,

'Deploring the fact that grave attacks are still being made on fundamental freedoms and the dignity of the human person and that colonial and racist foreign domination powers continue to violate international humanitarian law,

'Recalling the relevant provisions contained in the instruments of international humanitarian law relative to the protection of women and children in time of peace and war,

'Recalling, among other important documents, its resolutions 2444 (XXIII) of 19 December 1968, 2597 (XXIV) of 16 December 1969, and 2674 (XXV) and 2675 (XXV) of 9 December 1970, on respect for human rights and basic principles for the protection of civilian populations in armed conflicts, as well as Economic and Social Council resolution 1515 (XLVIII) of 28 May 1970 in which the Council requests the General Assembly to consider the possibility of drafting a declaration on the protection of women and children in emergency or wartime,

'Conscious of its responsibility for the destiny of the rising generation and for the destiny of mothers, who play an important role in society, in the family and particularly in the upbringing of children,

'Bearing in mind the need to provide special protection of women and children belonging to the civilian population,

'Solemnly proclaims this Declaration on the Protection of Women and Children in Emergency and Armed Conflict and calls for the strict observance of the Declaration by all Member States:

/...

'1. Attacks and bombings on the civilian population, inflicting incalculable suffering, especially on women and children, who are the most vulnerable members of the population, shall be prohibited, and such acts shall be condemned.

'2. The use of chemical and bacteriological weapons in the course of military operations constitute one of the most flagrant violations of the 1925 Geneva Protocol, the 1949 Geneva Conventions and the principles of international humanitarian law and inflict heavy losses on civilian populations, including defenceless women and children, and shall be severely condemned.

'3. All States shall abide fully by their obligations under the 1925 Geneva Protocol and the 1949 Geneva Conventions, as well as other instruments of international law relative to respect for human rights in armed conflicts, which offer important guarantees for the protection of women and children.

'4. All efforts shall be made by States involved in armed conflicts, military operations in foreign territories and in territories still under colonial domination to spare women and children from the ravages of war. All the necessary steps shall be taken to ensure the prohibition of measures such as persecution, torture, punitive measures, degrading treatment and violence, particularly against that part of the civilian population that consists of women and children.

'5. All forms of repression and cruel and inhuman treatment of women and children, including imprisonment, torture, shooting, mass arrests, collective punishment, destruction of dwellings and forcible eviction, committed by belligerents in the course of military operations or in occupied territories shall be considered criminal.

'6. Women and children belonging to the civilian population and finding themselves in circumstances of emergency and armed conflict in the struggle for peace, self-determination, national liberation and independence, or who live in occupied territories, shall not be deprived of shelter, food, medical aid or other inalienable rights, in accordance with the provisions of the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Declaration of the Rights of the Child or other instruments of international law."

13. At the 1517th meeting of the Committee, the Chairman announced that, if the Sixth Committee adopted the Declaration recommended by the Economic and Social Council, the required editing changes would be done by the Secretariat under the supervision of the Rapporteur of the Committee. Such changes consisted in replacing the opening paragraph containing the recommendation of the Economic and Social Council:

/...

"The Economic and Social Council

"Recommends to the General Assembly the adoption of the following draft resolution containing a declaration on the protection of women and children in emergency and armed conflict in the struggle for peace, self-determination, national liberation and independence:"

by the following paragraph:

"Having considered the recommendation of the Economic and Social Council contained in its resolution 1861 (LVI) of 16 May 1974",

which would become the first preambular paragraph of the draft resolution containing the declaration. Thus the draft resolution would read as follows:

"The General Assembly,

"Having considered the recommendation of the Economic and Social Council contained in its resolution 1861 (LVI) of 16 May 1974,

"Expressing its deep concern ...

"..."

III. VOTING

14. After having rejected by 77 votes to 7, with 15 abstentions, a motion submitted by the United States of America whereby the Sixth Committee, having had no time to discuss the issue in depth, should not take a decision on the draft resolution recommended by the Economic and Social Council in its resolution 1861 (LVI), the Sixth Committee, at its 1519th meeting, on 6 December, proceeded to vote on that draft resolution. The draft resolution containing a declaration on the protection of women and children in emergency and armed conflict in the struggle for peace, self-determination, national liberation and independence recommended by the Economic and Social Council (see para. 12 above) was adopted by 89 votes to none, with 15 abstentions (see para. 17 below, draft resolution I).

15. At the same meeting, the Sixth Committee proceeded to take a decision on the 15-Power draft resolution concerning respect for human rights in armed conflicts (A/C.6/L.1006). A vote was taken at the request of the representative of the United Arab Emirates. The 15-Power draft resolution was adopted unanimously (see para. 17 below, draft resolution II).

16. Statements were made before the vote by the representatives of Australia, Cuba, Egypt, German Democratic Republic, Qatar, the Union of Soviet Socialist Republics, the United Kingdom and the United States. The representatives of Australia, Austria, Belgium, Canada, China, Cyprus, Dahomey, France, Germany (Federal Republic of), Israel, Ivory Coast, New Zealand, Norway, Sweden, the Ukrainian Soviet Socialist Republic, the United Kingdom and the United States made statements in

/...

explanation of vote after the vote on the draft resolution recommended by the Economic and Social Council, and the representatives of Australia, Belgium, Canada, Cyprus, France, Germany (Federal Republic of), Greece, Israel, the United Kingdom and the United States made statements in explanation of vote after the vote on the 15-Power draft resolution.

IV. RECOMMENDATIONS OF THE SIXTH COMMITTEE

17. The Sixth Committee recommends to the General Assembly the adoption of the following draft resolutions:

DRAFT RESOLUTION I

Protection of women and children in emergency and armed conflict in the struggle for peace, self-determination, national liberation and independence

The General Assembly,

Having considered the recommendation of the Economic and Social Council contained in its resolution 1861 (LVI) of 16 May 1974,

Expressing its deep concern over the sufferings of women and children belonging to the civilian population who in periods of emergency and armed conflict in the struggle for peace, self-determination, national liberation and independence are too often the victims of inhuman acts and consequently suffer serious harm,

Aware of the suffering of women and children in many areas of the world, especially in those areas subject to suppression, aggression, colonialism, racism, alien domination and foreign subjugation,

Deeply concerned by the fact that, despite general and unequivocal condemnation, colonialism, racism and alien and foreign domination continue to subject many peoples under their yoke, cruelly suppressing the national liberation movements and inflicting heavy losses and incalculable sufferings on the populations under their domination, including women and children,

Deploring the fact that grave attacks are still being made on fundamental freedoms and the dignity of the human person and that colonial and racist foreign domination Powers continue to violate international humanitarian law,

Recalling the relevant provisions contained in the instruments of international humanitarian law relative to the protection of women and children in time of peace and war,

Recalling, among other important documents, its resolutions 2444 (XXIII) of 19 December 1968, 2597 (XXIV) of 16 December 1969 and 2674 (XXV) and 2675 (XXV) of

/...

9 December 1970, on respect for human rights and basic principles for the protection of civilian populations in armed conflicts, as well as Economic and Social Council resolution 1515 (XLVIII) of 28 May 1970 in which the Council requested the General Assembly to consider the possibility of drafting a declaration on the protection of women and children in emergency or wartime,

Conscious of its responsibility for the destiny of the rising generation and for the destiny of mothers, who play an important role in society, in the family and particularly in the upbringing of children,

Bearing in mind the need to provide special protection of women and children belonging to the civilian population,

Solemnly proclaims this Declaration on the Protection of Women and Children in Emergency and Armed Conflict and calls for the strict observance of the Declaration by all Member States:

1. Attacks and bombings on the civilian population, inflicting incalculable suffering, especially on women and children, who are the most vulnerable members of the population, shall be prohibited, and such acts shall be condemned.
2. The use of chemical and bacteriological weapons in the course of military operations constitute one of the most flagrant violations of the Geneva Protocol of 1925, 10/ the Geneva Conventions of 1949 11/ and the principles of international humanitarian law and inflict heavy losses on civilian populations, including defenceless women and children, and shall be severely condemned.
3. All States shall abide fully by their obligations under the Geneva Protocol of 1925 and the Geneva Conventions of 1949, as well as other instruments of international law relative to respect for human rights in armed conflicts, which offer important guarantees for the protection of women and children.
4. All efforts shall be made by States involved in armed conflicts, military operations in foreign territories and in territories still under colonial domination to spare women and children from the ravages of war. All the necessary steps shall be taken to ensure the prohibition of measures such as persecution, torture, punitive measures, degrading treatment and violence, particularly against that part of the civilian population that consists of women and children.
5. All forms of repression and cruel and inhuman treatment of women and children, including imprisonment, torture, shooting, mass arrests, collective punishment, destruction of dwellings and forcible eviction, committed by belligerents in the course of military operations or in occupied territories shall be considered criminal.

10/ League of Nations, Treaty Series, vol. XCIV, No. 2138, p. 65.

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

6. Women and children belonging to the civilian population and finding themselves in circumstances of emergency and armed conflict in the struggle for peace, self-determination, national liberation and independence, or who live in occupied territories, shall not be deprived of shelter, food, medical aid or other inalienable rights, in accordance with the provisions of the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, 12/ the International Covenant on Economic, Social and Cultural Rights, 12/ the Declaration of the Rights of the Child 13/ or other instruments of international law.

DRAFT RESOLUTION II

Respect for human rights in armed conflicts

The General Assembly,

Conscious that a better application of existing humanitarian rules relating to armed conflicts and development of further rules remains an urgent task in order to reduce the suffering brought about by all such conflicts,

Recalling the successive resolutions adopted in the preceding years by the United Nations relating to human rights in armed conflicts and the debates on this subject,

Noting the report of the Secretary-General 14/ on the first session of the Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law Applicable in Armed Conflicts, held at Geneva from 20 February to 29 March 1974, and on the Conference of Government Experts on the Use of Certain Conventional Weapons, convoked by the International Committee of the Red Cross at Lucerne from 24 September to 18 October 1974,

Welcoming the decision by the Diplomatic Conference to invite national liberation movements recognized by the regional intergovernmental organizations concerned to participate in its work,

Welcoming the work of the first session of the Diplomatic Conference and the work of the Conference of Government Experts,

1. Expresses its appreciation to the Swiss Federal Council for convoking the second session of the Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law Applicable in Armed Conflicts in 1975 and to the International Committee of the Red Cross for its readiness to convoke in 1975 another Conference of Government Experts on the use of certain conventional weapons;

12/ General Assembly resolution 2200 A (XXI), annex.

13/ General Assembly resolution 1386 (XIV).

14/ A/9669 and Add.1.

2. Urges all participants in the Diplomatic Conference to do their utmost to reach agreement on additional rules which may help to alleviate the suffering brought about by armed conflicts and to respect and to protect non-combatants and civilian objects in such conflicts;

3. Calls upon all parties to armed conflicts to acknowledge and to comply with their obligations under the humanitarian instruments and to observe the international humanitarian rules which are applicable, in particular the Hague Conventions of 1899 and 1907, 15/ the Geneva Protocol of 1925 16/and the Geneva Conventions of 1949; 17/

4. Requests the Secretary-General to report to the General Assembly at its thirtieth session on relevant developments concerning human rights in armed conflicts, in particular on the proceedings and results of the 1975 session of the Diplomatic Conference;

5. Decides to include in the provisional agenda of its thirtieth session the item entitled "Respect for human rights in armed conflicts" and emphasizes the need to allocate adequate time during the session to consider the results of both sessions of the Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law Applicable in Armed Conflicts.

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

16/ League of Nations, Treaty Series, vol. XCIV, No. 2138, p. 65.

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