

Principles and law

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IV. PRINCIPLES AND LAW

Humanitarian Law

The Diplomatic Conference

The fourth and final session of the Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law applicable in Armed Conflicts took place in Geneva from 17 March to 10 June 1977. After the closing meeting, the plenipotentiaries of 102 States and the representatives of three national liberation movements recognized by the intergovernmental regional organizations concerned signed the Final Act of the Conference, thus completing the work on the two Protocols additional to the Geneva Conventions of 12 August 1949; the first on international armed conflicts and the second on non-international armed conflicts. The two Protocols contain some 150 new articles of law which are additional to the 450 existing articles and constitute an achievement comparable in importance to that of 1949.

We shall not resume here the work of the fourth session; such a summary was published in the July 1977 issue of the *International Review of the Red Cross*. After a brief reminder of the role of the ICRC in the drafting and adoption of the Protocols, we shall stress rather the content of the Protocols in their final form. Finally, we shall broach the question of prohibiting and restricting certain weapons; this too was an item on the agenda of the Diplomatic Conference.

The role of the ICRC in the drafting and adoption of the Protocols

As directed by the Twenty-first International Red Cross Conference (Istanbul, 1969, Resolution XIII) and encouraged by the United Nations General Assembly (Resolution 2597—XXIV—1969), the ICRC had had various consultations and drawn up two draft protocols which it submitted to two meetings of National Red Cross Society experts (at The Hague and Vienna) and to a conference of government experts, which held two sessions, one in 1971 and one in 1972. On the basis of the work of these meetings, the ICRC produced the two draft protocols for increased protection of victims of international armed conflicts (Protocol I) and of non-international armed conflicts (Protocol II) which formed the basis for the work of the Diplomatic Conference.

The Swiss Government, as the depositary of the 1949 Geneva Conventions, convened the Diplomatic Conference which, from 1974 to 1977, examined the two drafts in four sessions attended by the ICRC as an expert. In this capacity it fell to the ICRC to submit and explain the drafts. In addition, in the committees, working groups and plenary meetings, it took the floor on fundamental humanitarian questions and gave its views on the draft provisions in which it was mentioned. The League of Red Cross Societies was also represented and was able to give its opinion on any subject of concern to its members and itself. Mention should be made also of the productive work at the Conference of a "Red Cross Group", several of whose

REASONS FOR THE PROTOCOLS ADDITIONAL TO THE GENEVA CONVENTIONS

Since 1949 the way in which the forms of warfare had developed within the international community showed the need to supplement the four Geneva Conventions, the first two of which refer to the safeguard of the wounded, the sick and the shipwrecked, the third to the treatment of prisoners of war, and the fourth to the protection of civilians in time of war.

In particular :

— The civilian population, when in the power of an enemy or occupying power, was protected by the Fourth Convention, but practically unprotected from the effects of hostilities (e.g. large-scale bombing), except for the protection granted hospitals and some privileged places.

— Article 3 common to the four Convention and applicable to non-international armed conflicts proved to be inadequate in practice. Hence the need to supplement this article by more detailed rules.

— Guerrilla warfare, which had developed considerably since 1949, especially in armed conflicts for self-determination, was covered scantily, if at all, by international humanitarian law.

THE RATIONALE OF ARTICLE 1 OF PROTOCOL I (problem of wars of liberation)

The reproach which some government delegations at the Diplomatic Conference levelled at paragraph 4 of this article—which was finally adopted by a large majority—is that it might make the application of humanitarian law contingent on the underlying causes of conflict.

However, the acceptance of this article by such a majority demonstrated the concern of the Conference to draw up a humanitarian law which took into account problems peculiar to the countries of the Third World. For those countries, liberation from colonial rule and racialism is a fundamental principle, and the importance they attach to conflicts against “colonial” or “racialist” governments cannot be ignored. Taking it into account enables the Third World to identify with and fully to accept the obligations of humanitarian law. Paragraph 4 of article 1 widens the application of the law without calling in question the fundamental principle of the equal rights and duties of each party to a conflict.

proposals were accepted. This group comprised National Society representatives attending the Conference as members of government delegations, and representatives of the League and of the ICRC. It was chaired by Mr. Kai J. Warras, Secretary-General of the Finnish Red Cross.

At the beginning of 1977, the ICRC took part in the following preparatory work to ensure the success of the fourth session:

GROUP OF LANGUAGE EXPERTS. — From 3 to 20 January a dozen experts, convened by the Secretary-General of the Diplomatic Conference, met to co-ordinate the texts of articles adopted in committee during the preceding three sessions and to check the concordance of the various language versions.

The ICRC took part in the work of this group for which it had prepared proposals in co-operation with the linguists of the Conference Secretariat, and of which the results were communicated to all participating States and were the basis for the work of the drafting committee.

MISSIONS. — In agreement with the Swiss Federal Political Department (DPF)—i.e. the ministry of foreign affairs—which itself sent representatives to a number of countries in the Americas, Asia and Africa, the ICRC carried out missions in ten countries of Africa, Europe and North and South America.

The purposes of these missions were to underline the necessity of doing everything possible to enable the Conference to complete its work during the fourth session; to encourage governments to participate in the consultations proposed in the DPF circular of 14 January and intended to take place in Geneva between the official opening of the Conference (17 March) and the resumption of the work of the main com-

mittees (14 April); to sound the States visited on their attitudes to problems still to be solved; and to convey to those States the concern of the ICRC for certain fundamental humanitarian questions.

The Protocols additional to the Geneva Conventions

PROTOCOL I. — By adopting paragraph 4 of article 1 of Protocol I, the Conference broadened the *field of application* of humanitarian law applicable in international armed conflicts. The paragraph actually says that the Geneva Conventions and Protocol I shall henceforth apply also in armed conflicts in which people struggle against colonial domination, alien occupation and racist governments for their right to self-determination. This extension of the field of application is consistent with a recommendation expressed in several resolutions of the United Nations General Assembly. It may be mentioned in this connection that the ICRC itself, in 1949, had wished the Conventions to apply to colonial wars.

In connection with the care of *wounded* and *sick*, the articles adopted grant *civilian medical personnel* special protection similar to that which hitherto was the sole prerogative of the military medical personnel. This protection extends also to the *civil defence* services which may display a special sign, namely a blue triangle on an orange background.

Medical circles have every reason to be satisfied since some of its long-standing demands have been met, e.g. the protection of the *medical mission* as such irrespective of who benefits from that mission, and the prohibition of medical intervention inimical to the welfare of the patient.

A technical annex on long-range signalling by *medical aircraft* has considerably improved the possibility of their use, so that they should henceforth be able to play a leading role in the removal of the wounded to safety.

Another series of rules concerns the *search for the missing* and the respect of mortal remains. It affirms the right of families to know the fate of their members who have died or disappeared in the course of a conflict.

The main achievement, however, the very core of the work of the Diplomatic Conference, is the *protection of the civilian population from the effects of hostilities*. The draft submitted by the ICRC contained a section which covered every aspect of this subject and which was passed without too much change. There is now a set of rules which confirms the general immunity which should be granted to the civilian population. It defines the civilian population and civilian property by contrast with the military and military objectives which alone may be attacked. One article confirms the protection to be granted to historical monuments, places of worship and works of art. Another forbids starvation of the population as a means of warfare. One innovation is a special stipulation on the protection of the natural environment. Yet another provision forbids, under certain conditions, the destruction of works containing forces dangerous to the population (e.g. a dam or a nuclear power plant) and marked with a new sign, i.e. three orange circles on a white background.

Worthy of note is the obligation to take precautions to prevent the population from being affected by an attack, such as identification of targets as military objectives before shooting at them, the safeguard of undefended localities and demilitarized zones granted such status by agreement between the parties.

On the subject of indiscriminate or excessively cruel *methods and means of warfare*, the Diplomatic Conference confirmed the major principles of The Hague: belligerents do not have an unlimited choice of means to inflict harm on an enemy, and weapons likely to cause needless suffering are forbidden (see, also, page 45).

There are also provisions on *combatants* and on *prisoners of war*. Bearing in mind that in modern warfare the armed forces may comprise combatants in the conventional meaning of the term and guerrilleros, the Conference resolved to give a legal definition of "combatant" which would apply to all categories. Naturally, all legal combatants must respect the rules of international law applicable in armed conflict. Guerrilleros, on the other hand, may in some circumstances choose not to distinguish themselves from the civilian population provided they carry their weapons openly in combat.

Mercenaries constituted another delicate problem, in that what was involved was to deny a right to a certain category of individuals by a law intended first and foremost to protect people. While the Conference reached the conclusion that a mercenary

ARTICLE 44 OF PROTOCOL I: A COMPROMISE (problem of guerrilleros)

It must be borne in mind that this key article of Protocol I, achieved by difficult negotiation, is a compromise between two postulates.

One stresses the importance of defending at any cost the fundamental principle that combatants should be distinguishable from non-combatants, a premise which is a cornerstone of the humanitarian law edifice.

The other contends that humanitarian law should be adapted to the fighting methods of modern conflicts, and particularly to guerrilla warfare in which there is a tendency for combatants to mingle with non-combatants. This form of war is often the only one in which poor peoples may defend themselves; it is one which they will not forgo and if humanitarian law is not adapted to it it will be a dead letter in most conflicts.

Now it may be said that these two conflicting demands were equally essential for the development of humanitarian law; therefore a compromise had to be worked out, and that this was achieved is unquestionably a great success.

As a consequence, guerrilla warfare is admissible provided those engaged in it observe certain rules which they would prefer to ignore, while the principle that combatants and non-combatants must be distinguishable is maintained, although it is less clear-cut than formerly.

It must be pointed out that terrorism against civilians is quite inadmissible: attacks on the civilian population or on civilian persons constitute serious breaches of the Protocol for which the perpetrators, even if they are prisoners of war, must be prosecuted as war criminals.

**DEFINITION OF “MERCENARY”
(article 47, Protocol I)**

1. A mercenary shall not have the right to be a combatant or a prisoner of war.
2. A mercenary is any person who :
 - (a) is specially recruited locally or abroad in order to fight in an armed conflict;
 - (b) does, in fact, take a direct part in the hostilities;
 - (c) is motivated to take part in the hostilities essentially by the desire for private gain and, in fact, is promised, by or on behalf of a Party to the conflict, material compensation substantially in excess of that promised or paid to combatants of similar ranks and functions in the armed forces of that Party;
 - (d) is neither a national of a Party to the conflict nor a resident of territory controlled by a Party to the conflict;
 - (e) is not a member of the armed forces of a Party to the conflict;
and
 - (f) has not been sent by a State which is not a Party to the conflict on official duty as a member of its armed forces.

—of whom it gave a restrictive definition—has no right to combatant status or prisoner-of-war status, it did admit that he had a right to benefit from article 75, entitled *Fundamental guarantees* and which some delegates called a “mini-convention”. This article sets out the minimum guarantees to be granted any person affected by war and not expressly protected by more favourable rules.

One last point, a procedural provision, should be mentioned in respect of armed conflicts in which people struggle against colonial domination, alien occupation and racist régimes for their right to self-determination. Paragraph 3 of article 96 states that the authority representing a people engaged in such a conflict against a High Contracting Party may declare to the Swiss Government that it commits itself to the application of the Conventions and Protocol I, whereupon it has the same rights and duties as its enemy, provided of course that the enemy is a party to the Protocol.

PROTOCOL II. — Protocol II, applicable in non-international armed conflict, has 28 articles, instead of the 49 contained in the draft submitted by the committees. It was adopted by consensus, the reduction in the number of articles having enabled most countries of the Third World to approve it.

According to article 1, the Protocol is applicable in armed conflicts “which take place in the territory of a High Contracting Party between its armed forces and dissident armed forces or other organized armed groups which, under responsible command, exercise such control over a part of its territory

as to enable them to carry out sustained and concerted military operations and to implement this Protocol”. Despite its field of application being reduced, compared to that intended in the initial draft, the adoption of this instrument is a large step forward in humanitarian law.

It supplements and substantially develops the common article 3 of the 1949 Geneva Conventions which so far is the only provision applicable in non-international armed conflict and remains in force.

The fundamental guarantees (humane treatment, legal guarantees) are reinforced and supplemented, like the protection of the wounded and sick. All people who do not directly participate or no longer participate in hostilities have the benefit of these guarantees.

The medical and religious personnel, medical units and transport, and the medical mission as such shall be respected and protected. Moreover, Protocol II gives the force of law to the general principle that the civilian population must be respected. However, the governments did not consider it possible to adopt a general principle that in non-international armed conflict civilian property should, as in Protocol I, be protected. Only three kinds of civilian property were granted protection, namely that necessary to the survival of the civilian population, works and plant containing dangerous forces, and places of worship. It should be mentioned also that the forcible moving of population has been specifically forbidden, except when their safety or imperative military requirements so demand. This provision, which appears only in Protocol II, is of great

importance for humanitarian reasons, since such forcible moving of population in the past has engendered considerable tragedy.

THE RED CROSS IN THE TWO PROTOCOLS. — On the whole, the position of the Red Cross in humanitarian law has been reinforced.

The activity of *National Societies* is recognized in several provisions of the two Protocols. In *Protocol I*, paragraphs 2 and 3 of *article 81* deal with the activities of National Societies, facilities which should be granted them, and the aid which the Red Cross organizations and the League of Red Cross Societies may extend to conflict victims. *Article 6* provides for National Society participation in the training of personnel who should facilitate the application of the Geneva Conventions and the Protocols. *Article 17* confirms the right of National Societies to help the wounded and sick in territory where fighting occurs, while *article 8*, in particular, reinforces the right of National Society medical personnel to be respected and protected. Under *article 33* National Societies may be required to transmit information on persons reported missing.

In *Protocol II*, *article 18* authorizes National Societies to offer to carry out their traditional tasks during armed conflict.

The position of the ICRC, as specified in the Geneva Conventions, is confirmed and developed. According to *article 81* of *Protocol I*, for instance, parties to a conflict shall grant the ICRC every facility it is in their power to provide so that it may discharge the humanitarian tasks assigned it by the Geneva

Conventions and the Protocols to ensure that conflict victims are protected and assisted. The ICRC's right of initiative is confirmed, since it may also carry out any other humanitarian tasks in favour of these victims with the consent of the parties to the conflict.

In *article 5*, dealing with the appointment and activity of Protecting Powers, an important function is assigned to the ICRC in the designation of such Protecting Powers. The same article also provides that the ICRC may act as a substitute for Protecting Powers with the consent of the parties to the conflict. The ICRC, under *article 6*, shall also contribute in the training of staff with a view to facilitating the application of the Conventions and the Protocols. *Article 33* entrusts the ICRC and the Central Tracing Agency to act as intermediaries for the transmission of information on missing persons. *Articles 97 and 98* assign to the ICRC a role in the procedure for amendments to Protocol I and for revision of the annex thereto. *Article 24* of *Protocol II* does likewise for any amendment of that Protocol.

Protocol II does not mention the role which the ICRC may play in the application of that Protocol because it merely develops and supplements article 3 common to the Geneva Conventions, under which the ICRC may always offer its services to parties to a conflict.

RESOLUTION OF TWENTY-THIRD INTERNATIONAL RED CROSS CONFERENCE. — The ICRC reported the results of the Diplomatic Conference to the Twenty-third International Red Cross Conference at Bucharest in October 1977 (see p. 49

WHAT IS ONE TO THINK OF PROTOCOL II ?

To admit the need to develop article 3 common to the four Geneva Conventions was to open up two possibilities :

- either to lay down general principles with a wide field of application,
- or to establish detailed rules applicable only to limited situations.

It was the second possibility which was finally chosen.

The original idea was that Protocol II should have the same field of application as common article 3. However, the field was reduced, mainly because some States feared that the Protocol might supply an excuse for interference in their internal affairs.

That fear and the widely held view that the draft Protocol had become far too substantial finally resulted in the deletion of many articles which had been adopted by committees. The Protocol, as finally adopted by the plenum, does not greatly differ from the very first draft drawn up by the ICRC.

Although Protocol II applies only to fairly intense conflicts, and although it is too early to predict its future, its adoption, reflecting the efforts of the whole international community, must be greeted with approval.

below). In a resolution recalling the interest it had always had in the reaffirmation and development of humanitarian law applicable in armed conflicts, the Twenty-third Conference:

. . .

4. expresses the wish that the Protocols be signed and ratified, or acceded to, as soon as possible, so that they become as universally accepted as the Geneva Conventions,
5. expresses satisfaction at the important role assigned by the Protocols to the Red Cross and, in particular, to the National Societies, and invites the ICRC, the League and the National Societies to take steps to carry out this role to the full,
- . . .
8. asks the ICRC to report to the XXIVth International Conference of the Red Cross on signatures, ratifications and accessions to the Protocols.

UNITED NATIONS RESOLUTION. — The thirty-second session of the United Nations General Assembly, in resolution A/Res./32/44 entitled “Respect for Human Rights in Armed Conflicts”, welcomed the conclusion of the Diplomatic Conference. In addition, the General Assembly:

. . .

4. Urges States to consider without delay the matter of signing and ratifying or acceding to the two Protocols. . . ;
- . . .
6. Calls upon all parties to armed conflicts to acknowledge and to comply with their obligations under the existing instruments of international humanitarian law 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;
7. Call upon all States to take effective steps for the dissemination of humanitarian rules applicable in armed conflicts;
8. Requests the Secretary-General to submit to the General Assembly at its thirty-fourth session a report concerning the state of signatures and ratification of the Protocols Additional to the Geneva Conventions of 1949. . . .

SIGNING OF THE PROTOCOLS. — The official ceremony for the signing of the Protocols took place in Berne on 12 December 1977 in the presence of the Head of the Federal Political Department, Federal Councillor Pierre Graber, the President of the ICRC, Mr. Alexandre Hay, accompanied by other

ICRC representatives, and the plenipotentiaries of forty-six States Parties to the Geneva Conventions who signed the Protocols: Austria, Belgium, Byelorussia, Canada, Chile, Denmark, Ecuador, Egypt, El Salvador, Finland, German Democratic Republic, Ghana, Guatemala, Holy See, Honduras, Hungary, Iceland, Iran, Ireland, Italy, Ivory Coast, Jordan, Liechtenstein, Luxembourg, Mongolia, Morocco, Netherlands, Nicaragua, Norway, Pakistan, Panama, Peru, Philippines *, Poland, Portugal, Senegal, Sweden, Switzerland, Togo, Tunisia, Ukraine, USSR, United Kingdom, United States, Viet Nam * and Yugoslavia.

The Federal Republic of Germany signed the two Protocols on 23 December.

The Protocols will remain open for signature for twelve months starting on 12 December 1977. They will become effective six months after the deposit of two deeds of ratification with the depositary State, i.e. the Swiss Federal Council.

The weapons question

The first session of the Diplomatic Conference set up an *ad hoc commission* on conventional weapons which met during each of the four Conference sessions. However, unlike the Committees, the work of the *ad hoc* commission was not based on drafts prepared by the ICRC but on proposals and documents presented by governments. The report published by the ICRC in 1973 on the work of the Group of Experts which it had consulted on the problem of certain conventional weapons likely to cause excessive suffering or to strike indiscriminately, and the reports on the conferences of government experts in Lucerne and Lugano, also convoked by the ICRC, in 1974 and 1976 respectively, also provided the *ad hoc* commission with valuable information.

During the fourth session, the commission formed a working group to examine the various proposals for banning or restricting the use of certain conventional weapons. Most members of the group agreed to condemn the use of weapons designed to wound by shrapnel which is not detectable by X-ray. There was a great deal of ground also for agreement on the subject of mines and booby-traps, and particularly on the recording of mine emplacements, on the restriction of mine-laying by remote control, on the use of mines and other devices in inhabited areas, and on the banning of certain explosive and non-explosive devices. Incendiary weapons were discussed at length. For other kinds of weapons considered, documents were submitted but not unanimously approved. They will probably have to be the subject of searching technical discussion before agreement can be reached.

* These two States signed only Protocol I.

On the follow-up to the work of the *ad hoc* commission, it was finally agreed that no document banning or restricting the use of certain conventional weapons would be submitted to the Diplomatic Conference, which many delegations considered not to be the proper forum for the adoption of such laws. Incidentally, a draft article on the founding of a standing committee to examine and approve recommendations on proposals for the prohibition or restriction of the use of certain conventional weapons likely to cause excessive suffering was approved by most delegates but failed to pass with the necessary two-thirds majority.

However, nearly all delegates expressed their firm intent not to let the years of intense effort come to nought. Consensus was finally reached on a resolution (22) entitled "Follow-up regarding prohibition or restriction of use of certain conventional weapons". This recommends, *inter alia*, the convening of a conference of governments not later than 1979 to reach agreements prohibiting or limiting the use of certain conventional weapons and an agreement on a procedure for the revision of such agreements and for the consideration of new proposals.

UNITED NATIONS RESOLUTION. — The thirty-second session of the U.N. General Assembly, in its resolution A/Res./32/152 entitled "Incendiary and other specific conventional weapons which may be the subject of prohibitions or restrictions of use for humanitarian reasons", referred to the basic discussions which had taken place on this subject at the Conferences of Government Experts in Lucerne and Lugano and at the four sessions of the Diplomatic Conference. After taking note of the Secretary-General's reports on the work of the Diplomatic Conference and its resolution on the follow-up to the work on the prohibition or restriction of certain conventional weapons, the General Assembly:

. . .

2. Decides to convene in 1979 a United Nations conference with a view to reaching agreements on prohibitions or

restrictions on the use of specific conventional weapons, including those which may be deemed to be excessively injurious or have indiscriminate effects, taking into account humanitarian and military considerations, and on the question of a system of periodic review of this matter and for consideration of further proposals;

3. Decides to convene a United Nations preparatory conference for the conference referred to in paragraph 2 above and requests the Secretary-General to transmit invitations to all States and parties invited to attend the Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law Applicable in Armed Conflicts.

Other meetings

In addition to the Diplomatic Conference, the ICRC took part in several other meetings on questions relating to the Protocols additional to the Geneva Conventions or relating to other subjects connected with international humanitarian law development.

Meetings relating to the Protocols

Before the fourth session of the Diplomatic Conference the ICRC took part in the meeting of a working group of the World Veterans' Federation (WVF) in Paris on 2 and 3 March. Two subjects discussed were the draft article in Protocol I which defined a new class of combatant and prisoner of war (the guerrilleros question, article 44, Protocol I), and terrorism.

After the Diplomatic Conference the ICRC participated in several colloquia for the purpose of making the first analysis of the results. One of these meetings was the IVth Round Table of the San Remo International Institute of Humanitarian Law (30 August-3 September 1977). Another, organized by the

ACCESSIONS TO THE GENEVA CONVENTIONS

Two new States became Parties to the Geneva Conventions of 1949 :

The REPUBLIC OF BOLIVIA, in a letter received by the Swiss Federal Council on 10 December 1976, ratified the four Geneva Conventions.

The PEOPLE'S DEMOCRATIC REPUBLIC OF YEMEN has acceded to the Conventions according to a letter received on 25 May 1977.

By the end of 1977, the number of States Parties to the Geneva Conventions was 143.

University of Florence, was the Round Table on selected questions relating to the Protocols (28 September-1 October 1977).

The IVth San Remo Round Table also broached the following subjects: torture and humanitarian law; relief in cases of natural disaster; drafting of a text containing the fundamental rules of international humanitarian law applicable in armed conflicts.

By way of reminder we would mention also the Twenty-third International Red Cross Conference, for which see pp. 49-51.

Meetings on other humanitarian law subjects

Two other meetings at which the ICRC was represented were;

- the 27th Annual Congress for the study of the World Refugee Problem (AWR), Interlaken, from 29 September to 3 October 1977;
- the *ad hoc* group of experts for the drafting of a proposed convention for the prevention and repression of torture. This group, convened by the Syracuse International Association on Penal Law (*Institut supérieur international des sciences criminelles*) from 16 to 18 December 1977, included representatives of the International Commission of Jurists and of Amnesty International, university professors, and so forth. It worked out a draft which will be conveyed to the U.N. Human Rights Commission which has been directed to draw up such a draft convention.

Documentation and dissemination

The dissemination of knowledge of the principles of the Red Cross and international humanitarian law includes all activities aimed at familiarizing the public—and particularly the army, university circles and young people—with the principles of the Red Cross, the Geneva Conventions and, henceforth, their Protocols.

To this end, the ICRC takes great pains to get governments and National Societies to assume their responsibilities in this respect, in accordance with the provisions of the Geneva Conventions, the Protocols and the resolutions of International Red Cross Conferences. At the same time, it carries out a direct campaign, in all parts of the world, to train staff responsible for the dissemination of this knowledge in their respective countries. This activity, which involves governmental no less than Red Cross circles, is based on the organization of regional

seminars and training courses at ICRC headquarters. It complies with the following three fundamental principles confirmed by the Warsaw Seminar (see below):

(1) Although the dissemination of knowledge of international humanitarian law is the duty of governments, it should be a basic concern of the Red Cross in general, and more particularly of each National Society in its own country.

(2) The dissemination of knowledge about the ideals of the Red Cross must not be restricted to the Geneva Conventions, but should also cover the principles of the Red Cross and be seen as part of the overall concept of an individual's responsibilities to his fellow men.

(3) The dissemination of knowledge cannot be seen independently from the propagation of a spirit of peace by all the members of the Red Cross family. Dissemination of knowledge should never make it look as though war is "acceptable".

Furthermore, and in order to make its efforts to disseminate knowledge more effective, the ICRC feels that its policy must necessarily

- seek methods and language that are appropriate to the different situations of those who are to receive the information;
- give priority to work with the armed forces, which hold the basic responsibility for applying humanitarian law;
- develop personal contacts and initiate dialogue.

Warsaw Seminar

The First European Red Cross Seminar on the dissemination of knowledge of the Geneva Conventions was held in Warsaw from 21 to 30 March 1977. It was organized jointly by the Polish Red Cross and the ICRC, and brought together representatives from 22 National Societies in the following countries: Austria, Belgium, Bulgaria, Czechoslovakia, Denmark, Finland, France, German Democratic Republic, Federal Republic of Germany, Hungary, Italy, Netherlands, Norway, Portugal, Spain, Soviet Union, Sweden, Switzerland, Turkey, United Kingdom, United States and Yugoslavia.

The purpose of the seminar was to enable the participating National Societies to improve the dissemination of knowledge about the Geneva Conventions in their respective countries.

During the first two days, the participants met in plenary, and each delegation reported on its country's achievements in terms of disseminating knowledge about international humanitarian law. They then split up into two working groups to examine the following topics:

- dissemination of knowledge within the armed forces, higher education establishments, schools and other governmental

institutions. Staff training. Possible role, potential and means of action for National Societies in these circles;

- dissemination of knowledge within National Societies and the general public. Staff training.

At their final meetings, the working groups drew up their conclusions, and these were approved by the Seminar at its final plenary session.

The ICRC presented a report on this seminar at the Twenty-third International Red Cross Conference, where the President of the Polish Red Cross submitted a draft dissemination programme drawn up jointly by the ICRC and the Polish Red Cross and covering the coming four years. The programme concerns the organization of the following meetings in Poland:

1978: a Red Cross meeting to examine ways to disseminate knowledge among the different sections of youth;

1979: a symposium for professors of international public law who participated in the Diplomatic Conference on International Humanitarian Law and who work with the Red Cross in the field of the dissemination of knowledge;

1980: a meeting to examine co-operation methods between National Societies in the dissemination of knowledge of international humanitarian law, a subject to be tackled in relation with the development programme;

1981: an evaluation seminar (second European seminar) prior to the Twenty-fourth International Red Cross Conference.

This programme was approved by the Conference, and in Resolution 6 on dissemination, adopted unanimously, it congratulated the Polish Red Cross on its initiative to promote the dissemination of knowledge.

As a result of the worthwhile experience of the Warsaw Seminar, the ICRC has decided to organize similar meetings in co-operation with National Societies in other parts of the world.

Thus, at the end of 1977, plans had already been made to hold seminars in conjunction with:

- the Kenya Red Cross, for National Societies in English-speaking Africa, in August 1978;
- the Malaysian Red Crescent, for National Societies in Asia, in November 1978;
- the Colombian Red Cross, for National Societies in Latin America, in 1979;
- the Tunisian Red Crescent, for National Societies in French-speaking Africa, in 1979.

Dissemination of knowledge among young people

School textbook

Since it was first published in 1967, the school textbook *The Red Cross and My Country*, designed for primary grades, has been printed in 25 languages. Total printing is over two million copies, and it is used in 65 countries throughout the world.

In 1977, the ICRC made some 30,000 copies available in the following countries: Botswana, Colombia, Nigeria, Senegal and Tunisia.

“Teaching Guide”

In September 1977, the ICRC joined with the League in publishing a new teaching guide, in this case designed for secondary school teachers and entitled: *The Red Cross Teaching Guide*.

This guide is made up of a series of independent documents, each dealing with a specific subject, divided up into three main sections: an “Information File” (tracing the history of the Red Cross and describing the different institutions of which it is composed, the Geneva Conventions, etc.), Study Dossiers (on topics such as the Red Cross and war, the Red Cross and peace, the Red Cross and natural disasters, the Red Cross and health, etc.) and a Summary Dossier (“The Red Cross, an idea and an action”—“The Red Cross, a state of mind, an attitude”, etc.). In addition to these dossiers, the guide includes teaching outlines showing how the Red Cross can be introduced as a subject in a variety of lessons, such as history, geography, mathematics, etc. Finally, it should be noted that National Red Cross Societies can adapt each guide to fit in more appropriately with the needs and circumstances of their respective countries.

As a first step, the Teaching Guide has been published in English and French, the idea being that, on the basis of the original edition, National Societies and interested governments will themselves work on a national edition that meets the requirements of their respective countries.

At the end of 1977, the Spanish Red Cross was undertaking the translation into Spanish.

Porto Novo Seminar

A regional training course for National Red Cross youth instructors and directors was organized by the League from 10 to 21 December 1977 in Porto Novo, Benin.

A considerable part of the course timetable was devoted to knowledge about the International Red Cross and the Geneva Conventions, and above all to the methods of teaching young people about the principles of the Red Cross, particularly in schools. At the League's invitation, the ICRC sent a delegate to help run the seminar, which was attended by representatives from 14 countries of French-speaking Africa.

Dissemination among the armed forces

Soldier's Manual

The Soldier's Manual is one of the means the ICRC uses to disseminate knowledge of the Geneva Conventions among the armed forces. In 1977, more than 70,000 copies were dispatched to the following countries: Botswana, Jordan, Lebanon, Nigeria, Senegal, Somalia, Swaziland and Tunisia.

International Course on the Law of Armed Conflict

The ICRC played an active part in the second and third sessions of the International Course for Officers on the Law of Armed Conflict, organized by the San Remo International Institute for Humanitarian Law, one of whose staff, a lieutenant-colonel chief-of-staff, was in charge of running the course.

The first of these sessions, where French was the working language, was held in San Remo from 15 to 22 June. It was attended by some twenty officers from the following countries: Belgium, Cameroon, Canada, Iran, Spain and Switzerland. The second, at which Italian was used, took place in Florence from 7 to 14 September, and brought together about forty Italian officers.

The course, which includes both theoretical training and practical exercises, deals mainly with the study of the implications of the Law of The Hague, the Geneva Conventions and the Protocols on hostilities.

Seminars in the United States

At the invitation of the American Army, a member of the ICRC's Legal Division attended the following two seminars on international humanitarian law:

- a seminar organized by the U.S. Air Force at Scott Air Base (Illinois), from 26 to 29 September, for Judge Advocates of the Military Airlift Command;
- the annual conference of Judge Advocates of the U.S. Navy and Marine Corps, in Washington, from 3 to 7 October.

Publications

In 1977, the ICRC brought out the following publications:

- *The International Review of the Red Cross*; monthly (Eng., Fr., Sp., see also p. 54)
- *The International Tracing Service—Arolsen* (Eng., Fr., Rus.)
- *The Red Cross Emblem*; a short history. F. Bugnion
- *Origin and development of international humanitarian law* (Eng., Fr., Sp., Ger., Arabic, Rus.)
- *Recueil systématique des résolutions des Conférences de la Croix-Rouge*
- *List of States Parties to the Geneva Conventions*
- *Summary of the work of the Fourth Session of the Diplomatic Conference on the Re-affirmation and Development of International Humanitarian Law Applicable in Armed Conflicts*
- *Annual Report 1976*
- *The Doctor in the Geneva Conventions (in Arabic)*
- *Protocols additional to the Geneva Conventions of 12 August 1949*
- *Red Cross Teaching Guide* (a joint ICRC-League publication).

Relations with the Red Cross Institutions and the National Societies

The Twenty-third International Red Cross Conference

Preparatory work

The main topic of the Twenty-third International Red Cross Conference was the study of the Report on the Re-appraisal of the Role of the Red Cross drawn up by Mr. D. Tansley, entitled *An Agenda for Red Cross*. This important document was submitted to all the Red Cross organizations; the various bodies concerned had already begun their assessment of it, and in particular, those of the ICRC and the League had started their evaluation in Autumn 1975.

From 29 April to 1 May 1977, a meeting was held in Montreux on this question, bringing together the Chairman and Vice-Chairmen of the League, eight members of the ICRC and the

members of the Standing Commission. They undertook a joint study of most of the points dealt with in the report. As a result of the discussions, a joint report was drafted, entitled: The ICRC, the League and the Tansley Report, containing the thoughts of the ICRC and the League on this matter. This document of some 140 pages contains several passages in which the ICRC and the League express a common point of view. Where the questions concerned only one of them, the ICRC and the League stated their respective opinions. This document proved useful to the International Red Cross Conference as a basis for its discussions.

The Conference

The *Twenty-third International Red Cross Conference* was held in Bucharest from 15 to 21 October 1977.

This Conference was organized by the Romanian Red Cross, assisted by its Government, and was attended by over 700 delegates representing 103 National Red Cross Societies, the ICRC, the League and eighty Governments. There were some twenty observers from governmental and non-governmental organizations, as well as observers invited to attend in their personal capacity. The ICRC and the League sent a considerable number of staff to Bucharest to assist in ensuring the smooth running of the Conference.

The Conference itself was preceded by a number of preparatory meetings, particularly that of the *League Board of Governors* (henceforth to be called the League General Assembly) and the Council of Delegates. It should be noted here that the Board of Governors appointed Judge J.A. Adefarasin, President of the Nigerian Red Cross Society, as the new Chairman of the League.

At their end of October/beginning of November 1976 meeting in Geneva, on the occasion of the Extraordinary Session of the League Board of Governors, the National Societies had expressed the wish that the Report on the Re-appraisal of the Role of the Red Cross preferably be discussed in the first instance within the "Red Cross family". For this reason, the Standing Commission of the International Red Cross had decided that the Council of Delegates, in which only Red Cross organizations are represented, be entrusted with examining and deciding on a certain number of proposals contained in this report. This also explains the fact that the Council of Delegates met for three whole days, and split into three sub-committees to deal with the questions before it.

The *Council of Delegates* resolved, in particular, to set up a Commission to watch over the implementation of the Red Cross Programme of Action as a factor of peace, and to propose, if necessary, measures designed to achieve the goals and tasks inherent in this programme to the competent bodies of the League, the National Societies and the ICRC. The Council of Delegates also set up a working party to study all the questions

relating to the emblem, and to report on this matter to the Twenty-fourth International Red Cross Conference.

The Conference itself opened on 15 October with a ceremony which included speeches by the President of the Romanian Red Cross, Major General Constantin Burada, the Chairman of the Standing Commission, Sir Geoffrey Newman-Morris, the President of the ICRC, Mr. Alexandre Hay, and the new Chairman of the League, Mr. J.A. Adefarasin. The opening ceremony ended with a speech to the assembly by the Romanian Head of State, Mr. Nicolas Ceausescu.

The Conference was presided by Major General Burada, and split into three Commissions.

The *Commission on Protection and Assistance* was chaired by Tunku Tan Sri Mohamed (President of the Malaysian Red Crescent). It took note of the results of the Diplomatic Conference on the Re-affirmation and Development of International Humanitarian Law Applicable in Armed Conflicts. It proposed to the Twenty-third International Conference a series of resolutions and recommendations pertaining to this particular subject, and to the dissemination of knowledge of international humanitarian law applicable in armed conflicts and of the Fundamental Principles of the Red Cross, the Red Cross emergency radio broadcasts, measures designed to speed up international relief, the holding of hostages, and famine.

The *General and Organizational Commission* was chaired by Jonkheer G. Kraijenhoff (President of the Netherlands Red Cross). The Commission put forward a number of resolutions, notably on the abolition of torture, financing the ICRC, etc. It also confirmed a resolution made at the Twenty-second International Red Cross Conference concerning the application of the Fourth Geneva Convention of 12 August 1949 in the occupied territories of the Middle East.

The *Community Services and Development Commission* was chaired by Dr. H. Brzozowski, President of the Polish Red Cross. The Commission focused its discussions on the socio-medical field, and it put forward a series of resolutions on blood transfusion, health, development and the environment.

All these resolutions were ratified during the *plenary sessions*. The Twenty-third Conference also adopted a resolution confirming and defining the function of the Red Cross in today's world, and expressed its gratitude to Mr. D. Tansley for the important study he had carried out and which was submitted to the Conference. Appropriate steps were taken to ensure that the competent bodies of the Red Cross continue the examination of those proposals on which resolutions had not yet been made.

The Conference chose the elected members of the *Standing Commission* which is composed of two representatives of the League, two representatives of the ICRC and five members elected in a personal capacity by the International Conference. The five elected members were Sir Evelyn Shuckburgh (United Kingdom), whom the Commission elected as its Chairman,

Professor Werner Ludwig (G.D.R.), elected Vice-Chairman, Dr. Ahmad Abu-Goura (Jordan), Mr. Rito Alcantara (Senegal) and Mr. Kai Warras (Finland).

Since no proposal had been put forward regarding the venue of the Twenty-fourth International Red Cross Conference, the Conference directed the Standing Commission to decide the venue and date, and invited those National Societies willing to host it to submit their offers by 30 April 1978.

At the closing session, the speakers expressed their satisfaction with the results obtained during discussions, and were unanimous in expressing their gratitude to the Romanian Government and Red Cross which, despite the earthquake that hit the country in March 1977, had been nonetheless determined to maintain their invitation and to host the Conference under good conditions.

Relations with the National Societies

Whilst the ICRC is naturally called upon to maintain relationships with governments, since it is they who grant the facilities necessary for it to carry out its mission for the benefit of conflict victims, this does not make it any the less important for it, as a constituent part of the International Red Cross, to keep in close, constant and direct touch with all the National Societies and their federation, the League of Red Cross Societies.

The Statutes of the ICRC contain provisions making it responsible for certain specific tasks within the movement, such as maintaining the fundamental principles of the Red Cross and recognizing newly established or re-established National Societies. In addition, it has always been considered one of its basic duties to make every possible effort to bring about greater unity within the movement.

It was with this concern in mind that, amongst other measures, it set up a National Societies and Principles Division at headquarters in 1974. Since then, the Division has been making several contributions to work on the above-mentioned tasks (particularly the ICRC's systematic information on the

National Societies and their activities, the organization of more frequent contacts with their leaders, the regular participation of the ICRC in Red Cross meetings, etc.).

Furthermore, the Division carries out special studies to update and develop the general principles and guidelines governing the activities of the Red Cross.

Joint ICRC-League Commission on National Society Statutes

In accordance with the mandate that the Twenty-second International Red Cross Conference gave the ICRC and the League (Teheran, 1973, Resolution VI), the Joint Commission on National Society Statutes met twice—on 17 August and 7 December—to study the changes that some ten Societies had made in their statutes in 1977, and to make certain that these amendments did not run counter to the fundamental principles of the Red Cross and the conditions of recognition and admission. The Commission informed the Societies concerned of its comments and recommendations.

Furthermore, approaches were made to 13 Societies that were being set up—four of which were entirely new—with a view to their being recognized by the ICRC once the required conditions were met.

Finally, the Commission dealt with the cases of a number of Societies which had encountered serious difficulties of different kinds: suspension of activity, internal problems, seizure by the State, etc.

Visits to National Societies by the ICRC

Constantly aware of the need to strengthen its ties with the National Societies, the ICRC makes every effort to multiply its contacts with their leaders and members. In 1977, for instance, the ICRC President, Mr. Alexander Hay, visited the National Societies of the following countries: Finland (for the centenary of the Finnish Red Cross), Greece (centenary of the

RECOGNITION OF NEW NATIONAL SOCIETIES

On 15 September, the ICRC announced its recognition of two new National Societies, in MAURITIUS and PAPUA-NEW GUINEA. This brought the number of member Societies of the International Red Cross to 125.

Hellenic Red Cross), India (First Regional Conference of Asian Red Cross Societies), Japan (centenary of the Japanese Red Cross), Poland (First European Seminar on the Dissemination of Knowledge of the Geneva Conventions), Romania (Twenty-third International Red Cross Conference) and Switzerland. Furthermore, in the course of missions connected in particular with ICRC operations and funding questions, Mr. Hay met with the leaders of the National Societies of the Arab Republic of Egypt, Austria, the Federal Republic of Germany, Iran, South Africa and Syria.

In addition, Mr. Umbricht, Vice-Chairman of the ICRC Executive Board, contacted the National Societies of Guatemala and Nicaragua. Mr. Richard Pestalozzi, member of the Executive Board and Special Assistant to the ICRC President, carried out missions to Indonesia and Israel. Mr. Marcel A. Naville, member and former President of the ICRC, went to Lebanon, and Mr. Jacques de Rougemont travelled to Bulgaria for the Seventh International Festival of Red Cross and Health Films.

Visits to the ICRC by National Societies

The ICRC in Geneva was pleased to welcome some 1,500 members, including 27 directors, of National Red Cross and Red Crescent Societies.

Participation in regional seminars

Representatives of the ICRC attended the following Red Cross meetings, in many cases with the assistance of the League.

AFRICA

- Regional Seminar for heads of information and public relations services of National Red Cross and Red Crescent Societies in French-speaking Africa, in Dakar, from 17 to 29 January;
- Ninth Conference of Red Crescent and Red Cross Societies in Arab countries, in Algiers, from 28 to 31 March;
- Regional Meeting for National Red Cross Society Youth Directors in English-speaking Africa, in Dar-es-Salaam, from 23 to 27 May;
- Regional Training Institute for East and Southern Africa, in Gaborone (Botswana) from 5 to 16 September;

- Regional Training Course for National Youth Instructors and Directors in French-speaking Africa, in Porto Novo (Benin), from 12 to 21 December.

ASIA

- First Asian Regional Conference of National Red Cross Societies, in New Delhi, from 9 to 16 March;
- Second Conference of National Red Cross Societies in ASEAN countries, in Jakarta, from 15 to 18 July.

EUROPE

- First European Red Cross Seminar on the Dissemination of Knowledge of the Geneva Conventions, in Warsaw, from 21 to 30 March;
- Seventh International Festival of Red Cross and Health Films, in Varna (Bulgaria), from 16 to 25 June;
- International Red Cross Youth Meeting, in Belgrade, from 5 to 9 September.

Shôken Fund

The Joint Commission responsible for distributing the income from the Empress Shôken Fund—made up of representatives of the League and the ICRC—met at the League headquarters in Geneva on 5 April in the presence of H.E. Mr. Masao Sawaki, the Ambassador of Japan. It nominated the six beneficiaries of the 56th distribution, namely the National Societies of the following countries: Central African Empire, Chile, Morocco, Pakistan, Philippines and Tunisia.

The allocated sums, totalling 150,000 Swiss francs, will enable these Societies to improve their equipment, notably by buying ambulances, and to widen their blood transfusion and first aid activities.

The Empress Shôken Fund was set up in 1912 with a gift from Her Imperial Majesty of Japan, with a view to financing the humanitarian activities of National Societies, mainly in peace-time. Since then, the Fund has received several gifts from the Japanese Imperial Family, the Japanese Government and the Japanese Red Cross.

So that National Societies may present their requests in accordance with the rules in force, the Commission sends them, at the appropriate moment, specimen request forms.