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RESERVATIONS TO THE GENEVA CONVENTIONS OF 1949

II

by Claude Pilloud

VI. Reservations to the Geneva Convention relative to the Treatment of Prisoners of War

Article 4

On signature, *Portugal* entered a reservation concerning this article and Article 13 of Convention I but did not maintain it on ratification. It reads as follows:

The Portuguese Government makes a reservation regarding the application of the above Articles in all cases in which the legitimate Government has already asked for and agreed to an armistice or the suspension of military operations of no matter what character, even if the armed forces in the field have not yet capitulated.

Article 4 of Convention III defines the categories of persons who, if they fall into the power of the enemy, must be considered as prisoners of war, while Article 13 of Convention I lists the categories of persons to whom that Convention must be applied.

It seems that Portugal wished to except from this definition those members of the enemy armed forces who continue fighting despite the conclusion of an armistice or truce by the legitimate Government.

This case is covered by A (3) of Article 4 and (3) of Article 13, which refer to “members of regular armed forces who profess allegiance to a Government or an authority not recognised by the Detaining Power”. Many experiences of the Second World War led the authors of the Convention to include these persons in the category of those who, if captured, are entitled to the status and treatment of prisoners of war. There have often been cases of troops continuing to fight despite an armistice or the total occupation of the territory. In so far as these troops fight in accordance with the laws of war, it seems only logical and fair to consider their individual members as combatants entitled to be treated as prisoners of war if captured. This, of course, does not apply to persons who, after an armistice or during a truce, commit hostile acts under cover of secrecy.

The reservation entered by Portugal thus ran counter to the general feeling that in these cases the interests of the individual take precedence over those of the State.

* * *

The Republic of Guinea-Bissau, when acceding to the Conventions on 28 February 1974, made the following reservation concerning this article:

The Council of State of the Republic of Guinea-Bissau does not recognize “the conditions” mentioned in the second clause of this article and relating to “members of other militias and members of other volunteer corps, including those of organized resistance movements”, as these conditions are not compatible with the cases of “popular” wars as conducted nowadays.

The same reservation was made with regard to Article 13 of Convention I and Article 13 of Convention II.

The Provisional Revolutionary Government of the Republic of South Vietnam made the same reservation, although the text was slightly different:

The Provisional Revolutionary Government of the Republic of South Vietnam does not recognize the “conditions” mentioned under the second clause of this article and relating to “members of other militias and members of other volunteer corps, including those of organized resistance movements”, since these conditions are not compatible with the cases of people’s wars in the world today. (18 January 1974).

These reservations were the subject of declarations by the Federal Republic of Germany and by the United Kingdom:

United Kingdom

In relation to the reservations made by the Provisional Revolutionary Government of the Republic of South Vietnam and the Republic of Guinea-Bissau to Article 4 of the Convention relative to the Treatment of Prisoners of War and by the Republic of Guinea-Bissau to Article 13 of the Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field and Article 13 of the Convention for the Amelioration of the Condition of the Wounded, Sick and Shipwrecked Members of Armed Forces at Sea, the Government of the United Kingdom wish to state that they are likewise unable to accept those reservations.

British Embassy, Berne, 19 November 1975.

Federal Republic of Germany

The reservations formulated by the Republic of Guinea-Bissau concerning

Article 13, clause 2, of the 1st Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field,

Article 13, clause 2, of the 2nd Geneva Convention for the Amelioration of the Condition of the Wounded, Sick and Shipwrecked Members of Armed Forces at Sea,

Article 4, clause 2, of the 3rd Geneva Convention relative to the Treatment of Prisoners of War,

exceed, in the opinion of the Government of the Federal Republic of Germany, the object and purpose of these conventions and cannot therefore be accepted by the said Government. In all other respects, the present declaration shall not affect the validity of those conventions as between the Federal Republic of Germany and the Republic of Guinea-Bissau.

Bonn, 3 March 1975

Here again, it appears that there is confusion regarding the validity and the meaning of the reservations. The conditions mentioned under clause 2, letter A, of Article 4 of the Third Geneva Convention are those to be fulfilled by combatants not forming part of the regular armed forces in order to be entitled, in the event of capture, to be treated as prisoners

of war. Any government may grant enemy combatants falling into its power prisoner-of-war status and treatment, even if those combatants do not fulfil the conditions mentioned in Article 4. The declarations made, therefore, give information on the manner in which the two governments concerned will treat enemy combatants whom they capture. On the other hand, these declarations can certainly not extend the obligations of co-contracting States and oblige them to treat as prisoners of war the enemy combatants falling into their hands, even if the conditions mentioned are not fulfilled.

Reference should be made to what was said at the beginning of this study on the nature of the reservations. From this it follows that, here again, the texts are declarations of intent binding only on their authors, and not reservations.

In any case, the problem cannot be dealt with by means of reservations. It was the subject of protracted discussion during the second session of the Diplomatic Conference, which, at the end of the second session, began to examine Article 42 of the Protocol relating to international conflicts. This article, in addition to the provisions of Article 4 of Convention III, aims at creating a new category of prisoners of war. The aim is to make the conditions mentioned in Article 4 more lenient. The debates demonstrated that there were wide differences of opinion concerning the extent and the nature of the minimal conditions to be fulfilled by combatants in order to be entitled, in the event of capture, to the status and the treatment of prisoners of war. In general, there is a tendency to relax the conditions mentioned above. The most radical proposal in this field emanates from the Democratic Republic of Vietnam, and reads as follows:

All combatants in armed conflicts in which peoples are fighting against colonial domination or foreign occupation or against racist régimes in the exercise of the right of peoples to self-determination shall, if captured, have the status of prisoners of war throughout the period of their detention. (CDDH/III/253)

As can be seen, and in the cases mentioned, the combatants would not be subject to any restrictive condition and should all be granted prisoner-of-war status. In brief, if this amendment were to be accepted, the situation would be that envisaged by the Governments of Guinea-Bissau and of the Republic of South Vietnam in their declarations.

Article 12

A number of States have made reservations concerning this article, which deals with the transfer of prisoners of war from one Power to another. The same States have made a similar reservation with regard to Article 45 of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, which deals with the same subject. We shall therefore discuss the two questions together. These reservations have been made by the following States: Albania, Byelorussia, Bulgaria, the Chinese People's Republic, Czechoslovakia, the German Democratic Republic, Guinea-Bissau,¹ Hungary, the Democratic People's Republic of Korea, Poland, Rumania, the Ukraine, USSR, the People's Republic of Vietnam, the Provisional Revolutionary Government of the Republic of South Vietnam, and Yugoslavia. They all have the same purport, although the wording differs slightly. As an example, the following is the reservation made by the Ukraine:

Article 12:

The Ukrainian Soviet Socialist Republic does not consider as valid the freeing of a Detaining Power, which has transferred prisoners of war to another Power, from responsibility for the application of the Convention to such prisoners of war while the latter are in the custody of the Power accepting them.

The responsibility for prisoners of war transferred from a Power to another was the subject of lively discussion during the Diplomatic Conference of 1949. The United States of America which, after the end of the Second World War, considered itself responsible for the prisoners it had transferred to Allied Powers, proposed that the transferring Power and the Power to whom the prisoners are transferred, should be jointly responsible. This proposal was supported by many delegations, including that of the USSR. Other delegations maintained that the Power which transfers prisoners of war to another Power also Party to the Convention should be released from all responsibility for the application of the Convention to such prisoners. Finally, a compromise solution was proposed and accepted by majority vote. Without being

¹ The reservation made by Guinea-Bissau applies only to Article 45 of Convention IV.

jointly responsible, the transferring Power retains some obligations, which it must fulfil if requested by the Protecting Power.

What is the scope of this reservation? Is it possible in this way to impose on co-signatory States a wider responsibility than that envisaged by the Convention? We saw above that reservations cannot have this effect. It should be noted, in this respect, that the Convention does not free the transferring Power from all responsibility, since that Power remains obliged to correct the situation if there is failure in some important particular to apply the Convention to the prisoners, and that this obligation may involve a request on its part for their return. It is doubtful how joint responsibility could be exercised in any other way, unless pecuniary responsibility, to be determined later, is envisaged.

In consequence, this reservation cannot be considered binding on States which have not made it. Since it is not intended to set aside or modify the obligations of the States which did make it, it constitutes in reality a unilateral declaration by those States, indicating the attitude they will adopt if the case arises. They are not entitled, however, to rely on the Convention for any demand that other States adopt the same attitude.

The same considerations are fully applicable to the transfer of civilians dealt with in Article 45 of the Convention relative to the Protection of Civilian Persons in Time of War.

Article 60

Portugal made the following reservation on signature, but did not maintain it:

The Portuguese Government accepts this Article with the reservation that it in no case binds itself to grant prisoners a monthly rate of pay in excess of 50% of the pay due to Portuguese soldiers of equivalent appointment or rank, on active service in the combat zone.

The reasons for which Portugal made this reservation are not indicated. Article 60 provides for the payment of a monthly advance of pay to prisoners of war ranging from eight Swiss francs for the lowest category up to a maximum of seventy-five Swiss francs for general officers.

It must be stated that these amounts are very small. Furthermore, these advances of pay must be refunded to the Detaining Power after

the end of hostilities. They are considered, according to Article 67, as made on behalf of the Power on which the prisoners of war depend. Finally, the last paragraph of Article 60 provides that if the amounts payable would be unduly high compared with the pay of the Detaining Power's armed forces, the Detaining Powers may temporarily limit the amount made available to sums which are reasonable, but which, for Category I, shall never be inferior to the amount that the Detaining Power gives to the members of its own armed forces.

These considerations no doubt induced Portugal to abandon this reservation when she ratified the Geneva Convention.

Article 66

The *Italian Delegation* had made the following reservation on signature:

The Italian Government declares that it makes a reservation in respect of the last paragraph of Article 66 of the Convention relative to the Treatment of Prisoners of War.

This paragraph provides that the Power on which the prisoner of war depends shall be responsible for settling with him any credit balance due to him from the Detaining Power on the termination of his captivity. There may indeed be some room for criticism of the system inaugurated by the Convention, which releases the Detaining Power from its responsibility in this respect. However, the reservation was not maintained on ratification.

Articles 82 and following

Spain made the following reservation on signature:

In matters regarding procedural guarantees and penal and disciplinary sanctions, Spain will grant prisoners of war the same treatment as is provided by her legislation for members of her own national forces.

This reservation amounted to depriving the chapter on penal and disciplinary sanctions of all meaning. Fortunately, it was not maintained on ratification.

Luxembourg signed the Convention with the reservation "that its existing national law shall continue to be applied to cases now under consideration."

This reservation was probably unnecessary, since the Convention was obviously not intended to deal with situations which began before it was drawn up. In any case the reservation was withdrawn on ratification.

Article 85

Reservations were made in respect of this article by the following states: Albania, Byelorussia, Bulgaria, the Chinese People's Republic, Czechoslovakia, the German Democratic Republic, Hungary, the Democratic People's Republic of Korea, Poland, Rumania, the Ukraine, the U.S.S.R. and the People's Republic of Viet Nam. The purport of the reservations is the same in each case, although there are slight variations in wording. The following is the reservation entered by the U.S.S.R.:

The Union of Soviet Socialist Republics does not consider itself bound by the obligation, which follows from Article 85, to extend the application of the Convention to prisoners of war who have been convicted under the law of the Detaining Power, in accordance with the principles of the Nuremberg Trial, for war crimes and crimes against humanity, it being understood that persons convicted of such crimes must be subject to the conditions obtaining in the country in question for those who undergo their punishment.

It may be noted that the Polish reservation speaks of the "principles set forth at the time of the Nuremberg trials" and the Hungarian reservation of the "principles of Nuremberg".

This reservation, which is of considerable importance, calls for clarification. It may be wondered, indeed, what is meant by the "principles of the Nuremberg trial (or trials)". Is it a reference to the "principles of international law recognized in the Charter of the Nuremberg Tribunal and in the judgment of the Tribunal" which the United Nations General Assembly directed the International Law Commission to formulate? If so, war crimes are:

Violations of the laws or customs of war, which include, but are not limited to, murder, ill-treatment or deportation to slave labour or for any other purpose of civilian population of or in occupied territory, murder or ill-treatment of prisoners of war or persons on the seas, killing of hostages, plunder of public or private property, wanton destruction of cities, towns or villages, or devastation not justified by military necessity.

The International Law Commission defined crimes against humanity as:

Murder, extermination, enslavement, deportation and other inhuman acts done against any civilian population, or persecutions on political, racial or religious grounds, when such acts are done or such persecutions are carried on in execution of or in connexion with any crime against peace or any war crime.¹

It may be noted incidentally that this text has not been adopted by the United Nations General Assembly and that the subject is still under consideration.

The crimes covered by the reservation do not include the crimes against peace also mentioned in the Charter of the Nuremberg Tribunal and the judgment of that Tribunal. This is quite important, since on various sides anxiety has been expressed in case, by means of general accusations against a whole category of prisoners of war, they might be deprived of their status and the treatment to which the Convention entitles them, by being condemned, for example, for having taken part in an aggressive war. Mention has also been made of the Penal Code of the U.S.S.R. which, in Article 58 (4), permits the punishment of any support given to the section of the international bourgeoisie which does not recognize the legal equality of the Communist and capitalist systems and which tries to bring about the downfall of the Communist regime, or support given to groups or organisations under the influence of this bourgeoisie or organised directly by it.

Some authors have thought that the extension of this provision to apply to prisoners of war belonging to a country with a very different political system from that of the U.S.S.R. might lead, in fact, to many persons losing their rights as prisoners of war as a result of sentences inflicted on them.²

As we have seen above, even supposing that the U.S.S.R. were to apply this article of her Penal Code to prisoners of war, the offences in question would not be either war crimes or crimes against humanity and consequently the reservation would not apply. Furthermore, even

¹ *Report of the International Law Commission covering its Second Session*, 5 June-29 July 1950 General Assembly, Official Records: Fifth Session, Supplement No. 12 (A/1316).

² See, in particular, Dr. Otto Lachmayer, *Juristische Blätter*, Vienna, 1956, No. 4, pp. 85-87.

while it is true that a fairly large number of German or Austrian prisoners of war was sentenced in the U.S.S.R. after the Second World War on the basis of this Article of the Penal Code, it is extremely improbable that it could again be applied now that the U.S.S.R. is bound by the new Geneva Conventions. The U.S.S.R. is Party to these Conventions, whereas she was not bound by the 1929 Convention relative to the Treatment of Prisoners of War. Both the letter and the spirit of the 1949 Convention are against a prisoner of war being sentenced for a political attitude held, or a political activity carried on, before his capture.

Moreover, some States considered that the words used in the Soviet reservation did not indicate clearly from what moment the benefits of the Convention would be withdrawn from prisoners of war under sentence. They also wished to know of which of the rights provided for in the Convention the prisoners of war under sentence would be deprived. These States requested the Swiss Federal Council, as depositary of the Geneva Conventions, to ask the Government of the U.S.S.R. for an explanation of the exact interpretation to be placed on this reservation. The Swiss Government undertook to do so and received from the U.S.S.R. Ministry of Foreign Affairs a note which was communicated to all the States Signatory or Party to the Geneva Conventions. The following is an English translation:

As is shown by its wording, the reservation made by the Soviet Union concerning Article 85 of the Geneva Convention of 1949 relative to the Treatment of Prisoners of War means that prisoners of war who have been convicted under Soviet law for war crimes or crimes against humanity must be subject to the conditions applied in the U.S.S.R. to all other persons undergoing punishment after conviction by the courts. Consequently, this category of persons does not benefit from the protection of the Convention once the sentence has become legally enforceable.

With regard to persons sentenced to terms of imprisonment, the protection of the Convention will only apply again after the sentence has been served. From that moment onwards, these persons will have the right to repatriation in the conditions laid down by the Convention.

Moreover, it should be remembered that the conditions applicable to all persons undergoing punishment under the laws of the U.S.S.R. are in every way in conformity with the requirements of humanity and health, and that corporal punishment is strictly forbidden by law. Furthermore, the prison authorities are obliged, under the regulations in force, to transmit immediately to the Soviet authorities concerned, for investigation, complaints of convicted persons with regard to their sentences, or requests for a review of their cases, and any other complaint whatsoever. — Moscow, 26 May 1955.

It follows clearly, as the text of the reservation does indeed state, that the benefits of the Convention are applicable to prisoners of war accused of war crimes or crimes against humanity up to the moment when the sentence becomes legally enforceable, i.e. until the moment when all means of appeal have been exhausted. They will therefore have the benefit of all the legal guarantees provided for in the Convention during their trial and in particular of the assistance of the Protecting Power. The Convention will again become applicable to prisoners of war sentenced to terms of imprisonment when they have completed their sentence. These details are very useful, for the reservation had raised some doubts.

The substance of the reservation is in line with the trend of opinion during and after the Second World War, to the effect that those who have violated the laws of war cannot claim their protection. Many Allied tribunals, in a series of judgments, for this reason refused prisoners of war accused of war crimes the benefit of the 1929 Convention. The attitude of the Anglo-Saxon Powers has varied considerably in this respect. Whereas in 1947 at the Conference of Governmental Experts the ICRC had had some difficulty in persuading them to agree that the benefits of the Convention should remain applicable to prisoners of war until such time as *prima facie* evidence of guilt was produced against them, in 1948 at the XVIIth International Red Cross Conference in Stockholm, the Powers whose experts had raised objections abandoned them and themselves proposed the text of Article 85 finally adopted. The International Committee had not thought of going so far. It had restricted itself to the proposal that prisoners of war accused of these crimes should remain entitled to the benefits of the Convention until such time as sentence had been pronounced on them, a proposal which closely corresponds to the reservations entered by the U.S.S.R. and other States.

This problem became very important during the war in Vietnam. The Government of the Democratic Republic of Vietnam captured a number of American servicemen, most of them aircrews. The American troops, for their part, in conjunction with the armed forces of the Republic of Vietnam, captured many combatants belonging either to the National Liberation Front of South Vietnam or to the armed forces of the Democratic Republic of Vietnam, and it was not always possible to determine clearly to which forces they did belong. The Government of the Democratic Republic of Vietnam publicly stated that it did not

consider that American servicemen captured by them were prisoners of war, and therefore refused to supply lists of such prisoners. Nor did it permit them to correspond with their families and it did not allow the ICRC to visit them as provided for in Convention III. It added nevertheless that these prisoners were being treated humanely. In support of its refusal, the Government of the Democratic Republic of Vietnam pointed out that when it acceded to the Geneva Conventions of 1949, on 28 June 1957, it had made a reservation in respect of article 85 of Convention III. The reservation in question, worded in French, was to the effect that:

The Democratic Republic of Vietnam states that prisoners of war prosecuted and sentenced for war crimes or crimes against humanity consistent with the principles laid down by the Nuremberg Court of Justice shall not be given the benefit of the provisions of this Convention as specified in article 85.

On several occasions, it was announced that legal proceedings were to be taken against these prisoners, accused of violating the laws and customs of war by indiscriminately attacking the civilian population of the Democratic Republic of Vietnam. However, no sentence was ever pronounced against these American servicemen who, after lengthy negotiations, were finally repatriated in 1973: some of them had been a long time in captivity (up to six years) and some had been without any news of their families.

In the final stages of the war, lists of American servicemen held by the Democratic Republic of North Vietnam were forwarded to the United States through private channels and many prisoners were able to correspond with their families.

The International Committee of the Red Cross several times stated its attitude towards the stand taken by the Democratic Republic of North Vietnam. On page 20 of its Annual Report for 1966, the ICRC stated:

Referring to the reservation made by North Vietnam to article 85 of the Third Convention, the ICRC stressed that in any event prisoners were to be given the benefit of the Conventions and particularly of the guarantees provided for in case of prosecution until such time as they were convicted after a fair hearing.

The reservation made by the Democratic Republic of Vietnam gave rise to various articles by outstanding international legal experts, for

example, one by M. Meyrowitz in *Annuaire français de droit international*, 1969, p. 197; another entitled "The Geneva Convention and the Treatment of Prisoners of War in Vietnam" in the *Harvard Law Review*, 1967, p. 866; Professor Howard S. Levie's "Maltreatment of Prisoners of War in Vietnam" in *Boston University Law Review*, 1969, p. 323; an article by Professor Roger Pinto in *Le Monde* of 27 and 28 December 1969; and a more general one by Professor Paul de La Pradelle in *Revue générale de droit international public*, 1971, p. 313.

As mentioned above, a similar reservation was made by a number of governments and though the texts vary slightly it does not seem that those governments wished to express anything different. The Democratic Republic of Vietnam, when it acceded to the Geneva Conventions of 1949, in 1957, seems to have modelled its reservation on those made by several socialist States in respect of a number of articles, and in fact it formulated the same reservations to the same articles. Moreover, the Government of the Democratic Republic of Vietnam seems never to have claimed that it intended to express a reservation to article 85 at variance with the reservation made to the same article by the U.S.S.R. and the others States mentioned above.

However, as the reservation used the words "prosecuted *and* sentenced", the contention was made that the reservation affected prisoners who were merely prosecuted, as well as those who were sentenced; a contention which seems difficult to sustain. For a prisoner to be sentenced, he must obviously have been put on trial first. Consequently, one is inevitably attendant on the other, and only the actual sentence can set the date from which the condemned prisoner becomes subject to the national law, otherwise a chaotic situation would result: for instance, a prisoner who had been tried and acquitted would no longer be entitled to treatment as a prisoner of war.

It was claimed also that the American aircrews had been captured *in flagrante delicto* and should consequently be considered criminals of war. The relevance of this reasoning is hardly obvious; it is difficult to see why these circumstances should deprive an enemy soldier of the guarantees for his protection in the law; *flagrante delicto* can at most justify a simplified legal procedure without however incurring the forfeiture of essential safeguards. Moreover, not all captured American servicemen were taken *in flagrante delicto*; there was for example a seaman who had

fallen overboard and was picked up by the Democratic Republic of Vietnam.

In any case, the whole discussion, which sometimes became heated, seemed to be based on false premises. The status and treatment of prisoners of war are no longer what they were before the 18th century, that is to say, a favour granted to a captured enemy who had fought fairly. Since the end of the 18th century it has become an individual's right which he may claim individually and independently of his government. Consequently, the status and treatment of prisoners of war are by no means a sign of recognition of any specially honourable trait in a prisoner of war. In addition, when a soldier falls into the hands of an enemy he is vulnerable and it is precisely then that he has the greatest need of the legal and moral safeguards provided for him in international law. If the mere accusation was admitted to be sufficient without even showing evidence which would point to his likely guilt, the captured soldier would be at the mercy of the captor, as was the case in medieval times.

Further, and we have already mentioned this, the safeguards afforded by the Third Geneva Convention for prisoners of war, in the event of legal proceedings against them, are minimum requirements; those of most national legislations go further. Why then should an alleged war criminal be deprived of all the safeguards which national legislations grant every day to the worst penal law criminals?

It should be pointed out that the Geneva Conventions, particularly the Third, do not raise any obstacle to the trial of prisoners of war for war crimes, nor to their sentence by the courts of the Detaining Power should they be found guilty. All the Third Convention lays down is that the enemy prisoner accused of war crimes shall be given the benefit of certain legal guarantees. It should be added that those Conventions themselves stipulate that a serious breach of their provisions is a crime and they provide also for a universal system to repress such breaches.

In short, as mentioned above, the contention that, because of the reservation, servicemen accused of war crimes could be deprived of the benefits of the Conventions once they were captured does not stand up under examination. It was very likely for other reasons that the Government of the DRVN adopted the stand they did, but their motives undoubtedly exceed the purview of the Third Geneva Convention and the present study.

To conclude, we would underline that all controversy relating to the plight of American prisoners of war in the Democratic Republic of Vietnam has shown the weakness of the system for the implementation of the 1949 Geneva Conventions during a conflict which lasted many years. It would have been highly desirable to have determined, if possible by a court specified in the Conventions themselves, the scope and interpretation of article 85 and of the reservation made by the Democratic Republic of Vietnam. That is a loophole in the Geneva Conventions. In 1949, an attempt was made to provide a system which would have made it possible to settle cases of such nature, by arbitration or some other means, but every proposal put forward in that respect was rejected by the Diplomatic Conference.

The disputes which occurred concerning the status and treatment of American servicemen captured by the Democratic Republic of Vietnam also showed how difficult it was in present-day conflicts to differentiate between the treatment of prisoners of war and the plight of civilian populations. The lack of precise rules on the safeguarding of civilian populations and their protection against the effects of war and weapons makes it morally and psychologically difficult to apply rules, well established in international law, relative to the treatment of captured enemy soldiers. This is a situation which has caused concern to the International Committee of the Red Cross for a number of years. As far back as 1956, it drew up "Draft Rules for the Limitation of the Dangers Incurred by the Civilian Population in Time of War": the draft was not endorsed by governments.

In the draft Protocols which the ICRC submitted to the Diplomatic Conference which began its work in 1974, the protection of civilian populations against the effects of war is the most important chapter. Governments attending the Diplomatic Conference welcomed the ICRC's proposals intended to provide people taking no part in hostilities with the best possible protection from the effects of fighting.

The Government of the Democratic Republic of Vietnam no doubt realized that the situation needed clarification. During the Diplomatic Conference it proposed the insertion of a new article reading as follows:

Article 42 ter. — Persons not entitled to prisoner-of-war status

1. Persons taken *in flagrante delicto* when committing crimes against peace or crimes against humanity, as well as persons prosecuted and sentenced for any such crimes, shall not be entitled to prisoner-of-war status.

2. Nevertheless, the persons mentioned in the foregoing paragraph shall be treated humanely during their detention, shall not be subjected to any attempt on their lives or on their corporal integrity and dignity, shall be fed and housed in average conditions of comfort for nationals of the detaining Party, and shall receive treatment in case of sickness or wounds. Should they be guilty of a serious offence against the law during their detention, their right to legal defence shall be guaranteed and they shall be entitled to a fair and proper trial. (CDDH/III/254)

This article has not yet been examined but will no doubt be considered during the third session of the Diplomatic Conference. As can be seen, although it would refuse prisoner-of-war status to certain people, it was specified that they shall be treated with humanity and shall be afforded the guarantee of fair trial. Yet the standards of humanitarian treatment for enemy soldiers captured are laid down in the Third Geneva Convention: why then should one wish to establish different standards?

* * *

When acceding to the 1949 Geneva Convention, in 1973, the Provisional Revolutionary Government of the Republic of South Vietnam made the following reservation to this article:

The Provisional Revolutionary Government of the Republic of South Vietnam declares that prisoners of war prosecuted and sentenced for crimes of aggression, crimes of genocide or for war crimes, crimes against humanity pursuant to the principles laid down by the Nuremberg Court of Justice, shall not receive the benefit of the provisions of this Convention.

It can be seen immediately that this reservation goes much further than the reservations made by other governments to this article, since it adds "crimes of aggression," and "crimes of genocide" as reasons for depriving prisoners of war of the benefits of the Conventions. During its third session in 1951, the International Law Commission drew up a draft law on crime against the peace and security of mankind. This draft law referred to "acts of aggression" which it defined as follows:

the following acts are offences against the peace and security of mankind.

Any act of aggression, including the employment by the authorities of a State of armed force against another State for any purpose other than national or collective self-defence or in pursuance of a decision or recommendation by a competent organ of the United Nations,¹

¹ Report of the third session of the International Law Commission No. 9 (A/1858).

Aggression, after lengthy discussion, was the subject of a definition accepted unanimously at its 29th session by the United Nations General Assembly in 1974. The main part of that definition reads:

Article 1.

Aggression is the use of armed force by a State against the sovereignty, territorial integrity or political independence of another State, or in any other way inconsistent with the Charter of the United Nations as set out in this Definition.

According to the International Law Commission, the crime of aggression can be committed only by the authorities of a State.¹ This incidentally is consistent with the decisions of the Nuremberg Military Tribunal which tried the German senior officers accused of participation in a war of aggression. That tribunal considered that the following two considerations should be combined in order for an individual to be punished for responsibility in a war of aggression:

- (a) knowledge that a war of aggression has been started,
- (b) ability to direct or influence the political attitude which led to the launching or the continuation of the war.²

As can be seen, the crime of aggression can be perpetrated only by a few individuals and there can be no question of leveling such an accusation against extensive groups of people, for instance the armed forces as a whole or even certain units of those forces.

On the question of genocide, the Convention on the Prevention and Punishment of the Crime of Genocide, of 9 December 1948, states in Article II:

In the present Convention, genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

- (a) Killing members of the group;
- (b) Causing serious bodily or mental harm to members of the group;
- (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
- (d) Imposing measures intended to prevent births within the group;
- (e) Forcibly transferring children of the group to another group.³

¹ Report of the third session of the International Law Commission; No. 9 (A/1858).

² Law Reports of Trials of War Criminals, Vol. XII, p. 68, London, 1949.

³ Human Rights. A compilation of international instruments of the United Nations, New York, 1973.

This reservation drew objections from several governments. The United States Government, after stating that it did not recognize that the Provisional Revolutionary Government of the Republic of South Vietnam was qualified to accede to the Conventions, made the following declaration:

Bearing in mind, however, that it is the purpose of the Geneva Conventions that their provisions should protect war victims in armed conflict, the Government of The United States of America notes that the 'Provisional Revolutionary Government of The Republic of South Viet-Nam' has indicated its intention to apply them subject to certain reservations. The reservations expressed with respect to the Third Geneva Convention go far beyond previous reservations, and are directed against the object and purpose of the Convention. Other reservations are similar to reservations expressed by others previously and concerning which the Government of The United States has previously declared its views. The Government of The United States rejects all the expressed reservations.

The British Government gave its view in the following words:

In relation to the reservations made by the Provisional Revolutionary Government of the Republic of South Vietnam to Articles 12 and 85 of the Geneva Convention relative to the Treatment of Prisoners of War of August 12, 1949, the Government of the United Kingdom of Great Britain and Northern Ireland, recalling their declaration on ratification in relation to similar reservations by other States, wish to state that, whilst they do not oppose the entry into force of the two Conventions in question between the United Kingdom and the Republic of South Vietnam, they are unable to accept the above reservations because in the view of the Government of the United Kingdom these reservations are not of the kind which intending parties to the Conventions are entitled to make.

Article 87

Uruguay, upon ratification of the 1949 Geneva Convention in 1969, expressed a reservation to articles 87, 100 and 101 of the Third Convention and article 68 of the Fourth Convention "as regards the application and execution of the death sentence". Article 87 deals with penalties imposed on prisoners of war, article 100 with the death penalty, while article 101 says that if the death penalty is pronounced on a prisoner of war, the sentence shall not be executed before the expiration of

at least six months from the date the sentence was pronounced. Article 68 of the Fourth Convention provides for the death sentence but limits the kinds of cases when it may be pronounced in occupied territories.

This reservation is not clear; it might be that Uruguay, having, like several South American States, abolished the death penalty, viewed with some reluctance an international convention under which, in certain extreme cases, the death sentence might still be pronounced.

In any case, it is unlikely that the reservation means that Uruguay might apply the death penalty in cases where the Conventions would preclude it.

Article 99

Spain entered the following reservation with regard to this article:

Under 'International Law in force' (Article 99), Spain understands she only accepts that which arises from contractual sources or which has been previously elaborated by Organizations in which she participates.

This reservation, which was entered on signature, was confirmed on ratification in 1952. It is not our purpose to describe here Spain's international position during the years which followed the war of 1939-1945. It is impossible, however, not to think that the reservation has direct relation to that position. Since then, the situation has developed and Spain has become a member of the United Nations and its various specialized agencies. Probably the reasons behind the reservation have disappeared or at least have greatly lessened in importance. In this sphere, moreover, apart from the new Geneva Conventions and the Hague Convention of 1954 for the Protection of Cultural Property, international law has not been the subject of other international agreements. As has been seen, the Nuremberg principles, as stated by the International Law Commission, have still not become positive law any more than the code of offences against the peace and security of mankind drawn up by the same Commission.

Article 118

The Republic of Korea, upon acceding to the 1949 Geneva Conventions, in 1966, entered the following reservation with regard to this article:

The Republic of Korea interprets the provisions of article 118, para-

graph 1, as meaning that there is no obligation on the Detaining Power to repatriate prisoners of war by force against their openly and freely expressed wishes.

In reality, as was mentioned at the beginning of this article, this is rather a declaration of interpretation than a reservation. By this declaration the Republic of Korea, in effect, merely gave an indication of the way it would act and would expect others to act, but it could not oblige them to do so. It is, therefore, a declaration of interpretation which is in line with the principles set forth in the United Nations General Assembly resolution of 3 December 1952, the pertinent passage of which reads:

Force shall not be used against prisoners of war to prevent or effect their return to their homelands, and no violence to their persons or affront to their dignity or self-respect shall be permitted in any manner or for any purpose whatsoever. This duty is enjoined on and entrusted to the Repatriation Commission and each of its members. Prisoners of war shall at all times be treated humanely in accordance with the specific provisions of the Geneva Conventions and with the general spirit of that Convention.

This problem was discussed at length in the Commentary published by the ICRC on the Third Conventions.¹

VII. Reservations to the Geneva Convention relative to the protection of civilian persons in time of war

Article 44

Brazil made the following reservations on signature:

Brazil wishes to make two express reservations, in regard to Article 44, because it is liable to hamper the action of the Detaining Power . . .

Fortunately, this reservation was not maintained on ratification. Furthermore, its meaning was not very clear since Article 44 simply provides that the Detaining Power shall not treat as enemy aliens exclusively on the basis of their nationality *de jure* of an enemy State, refugees who do not, in fact, enjoy the protection of any government. Its object

¹ *Commentary*, Geneva Convention Relative to the Treatment of Prisoners of War, Geneva, 1960, Vol. III, pp. 540-549.

is to protect *bona fide* refugees against restrictive measures which might be applied to them in their capacity, even though a theoretical one, as enemy aliens.

Pakistan made the following reservation on ratification:

Every protected person who is national de jure of an enemy State, against whom action is taken or sought to be taken under Article 41 by assignment of residence or internment, or in accordance with any law, on the ground of his being an enemy alien, shall be entitled to submit proofs to the Detaining Power, or as the case may be, to any appropriate Court or administrative board which may review his case, that he does not enjoy the protection of any enemy State, and full weight shall be given to this circumstance, if it is established whether with or without further enquiry by the Detaining Power, in deciding appropriate action, by way of an initial order or, as the case may be, by amendment thereof.

It is difficult to say whether this is a real reservation. It seems, above all, that *Pakistan* wished to explain the way in which she has decided to act if the case arises with regard to enemy aliens who are in fact refugees without the benefit of the protection of any enemy State. Thus, this reservation may be termed rather a statement of interpretation. Furthermore, the procedure proposed by *Pakistan* seems quite logical and in line with a reasonable interpretation of Articles 43 and 44. It is obviously to the Detaining Power in the first place, i.e. to the authorities who take the decision to place in assigned residence or to intern a refugee of enemy nationality, that he should submit his case with the necessary proofs. If the decision to intern him or place him in assigned residence has already been taken, the papers in the case will naturally be put before the court or administrative tribunal which reconsiders the decision taken.

Article 46

Brazil entered the following reservation on signature:

Brazil wishes to make two express reservations, . . . in regard to Article 46, because the matter dealt with in its second paragraph is outside the scope of the Convention, the essential and specific purpose of which is the protection of persons and not of their property.

The paragraph in question provides, in effect, that restrictive measures affecting the property of protected persons shall be cancelled in accordance with the laws of the Detaining Power as soon as possible after the close of hostilities.

During the Diplomatic Conference, this provision, introduced at the suggestion of a delegation, was criticized, particularly by the Brazilian delegation. The reservations entered by Brazil, however, were not maintained on ratification.

Article 68

According to paragraph 2 of this article, the death penalty may be imposed on a protected person only in cases where the person is guilty of espionage, of serious acts of sabotage against the military installations of the Occupying Power, or of intentional offences which have caused the death of one or more persons, provided that such offences were punishable by death under the law of the occupied territory in force before the occupation began. This paragraph was the subject of long and lively discussions during the Diplomatic Conference, but was adopted by majority vote. A number of States considered it necessary to reserve their position with regard to the reference to the legislation of the occupied territory. They were: Argentina, Australia, Canada, Netherlands, New Zealand, Pakistan, the Republic of Korea, the United Kingdom and the United States of America.

Argentina and Canada did not confirm on ratification the reservation they had made on signing the Conventions. The reservation expressed by the United Kingdom was confirmed in 1957 on ratification but, as was mentioned above, was withdrawn in 1971. Australia withdrew in 1974 the reservation it had expressed on ratification in 1958. The following is the text of the United States reservation:

The United States reserve the right to impose the death penalty in accordance with the provisions of Article 68, paragraph 2, without regard to whether the offences referred to therein are punishable by death under the law of the occupied territory at the time the occupation begins.

After the Second World War a very strong feeling arose against the numerous death sentences inflicted on inhabitants of occupied territories and there was a general desire that the possibility of inflicting capital punishment should be as restricted as possible. This is the reason for

the text of paragraph 2 of Article 68, which only permits the death penalty for a small number of specially listed crimes and then only when the same penalty would have been inflicted under the law of the occupied territory for the same crimes.

In its *Commentary* on the IVth Convention, the International Committee of the Red Cross showed that “law of the occupied territory in force before the occupation began” should be interpreted as meaning the actual penal law ruling in the territory when the occupation began. This expression includes special war-time laws, whether special legislation has been enacted at the beginning of the conflict, or such legislation was already in existence and came automatically into force in time of war.¹

In effect, the fears of the States which made this reservation are illusory. There is no country, it appears, which in war-time does not have laws punishing with death the crimes listed in Article 68, especially when they are committed against military personnel or military property. Nevertheless, if there were a country to which the idea of the death penalty was so repugnant that it banned capital punishment even in war time, would it be fair to impose the penalty on it through occupation? As resolute adversaries of the death penalty, we do not think so. Furthermore, the events of the Second World War showed such abuses in this sphere that the greatest possible precautions are necessary.

We saw earlier that Uruguay made a reservation in respect of article 68, but its signification is certainly not the same as that expressed by the above-mentioned States. It may be added that Australia, on ratification in 1958, specified that its interpretation of the term “military installations” in the second paragraph of article 68 was that of installations of imperative military importance to the Occupying Power.

Article 70

New Zealand made the following reservation, not confirmed on ratification:

In view of the fact that the General Assembly of the United Nations, having approved the principles established by the Charter and judgment of the Nuremberg Tribunal, has directed the International Law Commission to include these principles in a general codification of offences against the

¹ *Commentary*, Geneva Convention relative to the Protection of Civilian Persons in Time of War, Geneva, 1958, pp. 345-346.

peace and security of mankind, New Zealand reserves the right to take such action as may be necessary to ensure that such offences are punished, notwithstanding the provisions of Article 70, paragraph I.

The paragraph concerned provides that nationals of the occupying Power who, before the outbreak of hostilities have sought refuge in the territory of the occupied State, shall not be arrested, prosecuted, convicted or deported from the occupied territory, except for offences committed after the outbreak of hostilities or for offences under common law committed before the outbreak of hostilities which, according to the law of the occupied State, would have justified extradition in time of peace.

This paragraph is of a very special nature. It is the only passage in the Convention where some protection is granted to nationals of the Occupying Power. At first sight, it seems that the reservation is easily reconcilable with the text of the article, since the offences envisaged would certainly be considered as offences under common law justifying extradition.

Furthermore, it should be noted that the task of codifying the law in this sphere undertaken by the United Nations is far from being finished. When it is finished, its acceptance by the various States will still be necessary.

VIII. Conclusions

Putting aside all the declarations of interpretation or of intention which were not strictly reservations but were called so by their authors, it will be seen that twenty-one States made valid reservations. In alphabetical order, these are:

	<i>Conventions</i>		
	I	III	IV
Albania		85	
Bulgaria		85	
Byelorussian SSR		85	
China (People's Republic of)		85	
Czechoslovakia		85	
German Democratic Republic		85	
Hungary		85	
Korea (Democratic People's Republic of)		85	
Korea (Republic of)			68
Netherlands			68
New Zealand			68
Pakistan			44, 68

	<i>Conventions</i>		
	I	II	III
Poland		85	
Romania		85	
South Vietnam (Republic of)		85	
Spain		99	
Ukrainian SSR		85	
Uruguay	87, 100,	101	68
USSR		85	
United States of America	53		68
Vietnam (Democratic Republic of)		85	

It is gratifying to find that reservations did not prevent any of the governments from becoming a party to the Conventions. Admittedly, the reservations concerning article 85 of the prisoners-of-war Convention and article 68 of the civilians Convention are important ones, but none of the other States parties to the Conventions made any objection to the participation of the reserving State.

It would be desirable if the reserving States would consider withdrawing their reservations, following the good example given by the United Kingdom in 1971 and by Australia in 1974 when they waived the reservation they had made to article 68 of the civilians Convention. The possibility of negotiations leading to the waiver of all or most reservations should not be excluded.

Claude PILLOUD
Director, ICRC

INTERNATIONAL COMMITTEE OF THE RED CROSS

CONFERENCE OF GOVERNMENT EXPERTS ON WEAPONS

In our previous issue, it was mentioned that the second session of the Conference of Government Experts, held under ICRC auspices at Lugano, ended on 26 February. At the final plenary meeting, Mr. J. Pictet, Chairman of the Conference, and ICRC Vice-President, closed the session with the following words:

Our work has drawn to a close. Although this Conference has made considerable progress on what was achieved in Lucerne, it is perfectly obvious that the last word on the matter has not yet been said.

I must admit quite sincerely that to reach a consensus on specific points has proved far more difficult than we had imagined. We are, however, aware that agreements of this nature are related to important interests concerning the security of nations and that the subject is of the utmost complexity.

Despite all our difficulties and differences of opinion, it would seem to me that the main result obtained in Lugano has been a step towards a diplomatic agreement on the prohibition of certain weapons and on a limitation of their use. One working group has even considered the form that such a document might take. I am convinced that a diplomatic instrument on weapons will, one day, be a reality. The ICRC certainly hopes so, for it is important that restrictions be imposed in this sphere in order to reduce both the numbers and the suffering of civilian victims of war. I will not conceal from you the fact that the ICRC views with growing alarm the news of weapons whose ravages go far beyond the requirements of military action.

Many proposals have been submitted and considered. We have accumulated a valuable body of documentation and many points have been clarified. We are now far more aware of one another's attitudes. That, too, is all to the good.

Although we have not, at this juncture, reached a true consensus, I do feel that some general trends have come to light which could be considered a valid basis for further discussion. I am thinking, for example, of the conclusions reached on mines, booby-traps and fragmentation weapons.

As for incendiary weapons, the ICRC most fervently hopes that it will be possible to make further progress and that the groundwork done here will help pave the way to a future agreement which will meet with the approval both of the Red Cross and of the general public—for weapons such as these incur general disapproval.

We have now become aware that there exists a category of weapon known as small-calibre. We have heard of numerous technical experiments carried out in various countries and have even witnessed some here. Such experiments provide legitimate cause for concern. Although no conclusion has been reached this time, we have agreed on the need to press on with experiments. The ICRC is of the opinion that consideration of the calibre, the muzzle velocity and even other manufacturing characteristics may not suffice, but that it will be necessary, above all, to concentrate on the particularly dangerous effects that these munitions have on the human body. In fact, the main thing to be avoided is the effects.

In any case, it is high time that such weapons were given consideration. We are convinced that no government would tolerate these new weapons' having considerably more serious effects on human beings than did their predecessors. We should, moreover, like to see everything possible done to prevent escalation in this sector.

Finally, the ICRC has noted that certain results have been achieved at both the Lucerne and the Lugano Conferences and is sure that these results will be consummated at some later stage. In view of the humanitarian interests at stake, the ICRC is at your disposal to help in continuing the work.

Now it only remains for me to thank all delegates who, through their good will and courtesy, have facilitated my task, and also those officials who have given so selflessly of themselves for the success of the Conference...

I wish you a pleasant journey home and hope that your thinking on return to your respective ministries will be productive so that this question of weaponry may remain a primary concern of all those on whom so many human lives depend.

* * *

We believe our readers would be interested to read the report presented on 24 February by Mr. Erich Kussbach, head of the Austrian Delegation, at the last meeting of the General Working Group. Mr. Kussbach, who chaired the working group, summarized its work in the following words:

Now that we are approaching the end of our Conference and the General Working Group is about to close its deliberations, perhaps you will permit me to make some comments by way of summing up the work that has been accomplished. I should emphasize at the outset that what I am going to say is based on *my personal impressions* and is not meant as any kind of conclusions by the chair on behalf of this group. On the contrary, each one of us must draw his own conclusions after the Conference and our Governments will do the same.

I am fully aware, indeed, of the complexity of the problems we faced during the last three weeks and also that this Conference was only one step further in *our continuous common efforts* in reducing human suffering caused in the course of armed conflicts which, in spite of existing prohibitions of the threat or use of force, regrettable as it is, seem to be unavoidable.

Let me now turn to the more specific task which has been entrusted to this second session of the ICRC Conference of Government Experts on the Use of Certain Conventional Weapons. According to the comments included in the communication received by the Secretary General of the Diplomatic Conference last year from the ICRC (Doc. CDDH/IV/203), the second session had to focus “on weapons regarding which proposals already exist or will subsequently be placed before that session”. And it is stated in the same document somewhat later that the experts “should seek to identify possible areas of agreement or—at least—different main conclusions”.

In compliance with Art. 1 para 2 of the Rules of Procedure the Conference had to examine the possibility, contents and form of proposed bans or restrictions. Furthermore, the Work Programme of the second session (Doc. RO 610/1 b) suggested that the experts should consider with respect to each category of weapons new information, in particular new facts and new arguments.

In accordance with the Rules of Procedure, efforts were made to adapt working methods in a most flexible way to the actual needs of our work. While general exchanges of views were mainly carried on within the General Working Group, sub-working-groups have been set up whenever it was felt that they would be useful for the study of specific questions. By this method, it also became possible to have simultaneous

meetings. At this point, I should like to express my gratitude once more to those smaller delegations which, although their limited size made it more difficult to attend two meetings at the same time, showed an admirable spirit of comprehension and of co-operation.

Having said this, I shall now give you my personal impressions on the current situation, as I see it, of our efforts regarding the different types of weapons. In doing so, I shall follow the order in which we have been dealing with them.

To reach a certain amount of consensus on the ban or restriction of *incendiary weapons* proved to be more difficult than some of us may have expected. Although the various groups with differing views on the subject showed some flexibility and readiness to discuss opposing positions and proposals, it soon became apparent that a large gap continued to exist between those positions.

Let me sum up briefly the different views as they seem to me:

Some new data were presented relating to casualty rates, mortality and length of treatment connected with the use of napalm bombs. However, there were no agreed conclusions. The question of the utility of napalm, especially for close air support, was further argued, similarly without any agreed conclusions.

The group of experts supporting the proposal contained in document RO/610/4 continued to be of the view that a complete prohibition of most incendiary weapons was desirable and possible. Some other experts were of the opinion that a ban of incendiary weapons could be elaborated on the basis of this proposal. The approach of the afore-mentioned group of experts was considered unrealistic or selective by another group of experts. Yet other experts considered the approach acceptable, but suggested that some exception for small incendiary weapons was needed. Reference was made to the possibility of a ban which would enter into force after a number of years, e.g. five, to enable States gradually to phase out incendiary weapons.

Four working papers containing new proposals were presented (COLU/205, COLU/207, COLU/211 and COLU/220). Two of these suggested restrictions in the use of napalm, particularly with a view to protecting civilians against its use. One of these proposals was especially criticized by some experts for containing too many exceptions from the ban of use. Others criticized it for imposing too severe restrictions. One expert questioned the concept that a prohibition on napalm was of humanitarian value, since alternative weapons would probably cause greater numbers of casualties.

Three of the new proposals suggested prohibitions of use of incendiary munitions on cities or other populated areas but made an exception for attacks upon military objectives in population centres. This concept, which had the support of one group of experts, was criticized by another group as not offering any meaningful advance over existing law. An amendment to one of the proposals intended to eliminate the exception for attacks on military objectives within or in close proximity to population centres (COLU/208). At a later stage a revision of the proposal in question was introduced, taking into account some of the criticism (COLU/205/Corr.1). Most of the experts commenting on the revised version paid tribute to the valuable effort of the sponsors in seeking for broader agreement. Some associated themselves with the introductory remarks of the sponsors to the effect that the revised proposal did not constitute the "end of the road", but served as a good basis for future consideration. However, the revised proposal did not satisfy all of the opponents of the original version. One expert commenting on it thought that a general ban on flame weapons combined with the prohibition of use of incendiary weapons against populated areas without exceptions would be a more attractive approach.

One of the three proposals, taking an intermediary view, contained specific provisions for the protection of combatants (COLU/211).

The fourth proposal was drafted in the form of an additional protocol to the Geneva Conventions and was based essentially on the working paper contained in document RO/610/4.

After this resume of the situation one may say that for the first time serious attempts were made to reduce the distance between opposing views, to explore the differences between them and to show more flexibility. This attitude has to be welcomed even though for the time being it did not succeed in achieving any conclusive agreement on the subject.

Coming now to the *delayed action weapons and treacherous weapons*, I had the impression that the preliminary discussion in both the Plenary and the General Working Group was rather promising. There was a general feeling shared by many experts that in this field substantial progress could be achieved.

Apart from the proposal contained in document CDDH/IV/201 prohibiting the laying of anti-personnel landmines from aircraft, several new proposals were presented. The most extensive among them, supported by one group of experts, covered the whole range of mines and booby traps (COLU/203), while others focused on specific weapons or aspects,

like time-fused weapons (COLU/213), booby traps (COLU/206) and on the disposal of mines (COLU/215).

In order to facilitate the work a sub-working-group of military experts was set up to study the different proposals and opinions.

This is not the place to go into details. The report of the military sub-working-group (COLU/GG/MIL/REP/1/Rev.1) gives a very comprehensive summary of areas of agreement and disagreement. I wish to thank the officers of the group for the valuable work they have accomplished. Although one may perhaps have expected more conclusive results, some progress can be discerned. Widespread agreement was reached on a revised proposal concerning the recording of minefields. Also, with regard to Article C and revised Article D of the proposal, contained in document COLU/203, broad agreement was reached that these articles were a significant advance over current regulations and that they could serve as a useful basis for future elaboration and refinement.

With regard to *small-calibre projectiles*, my personal summary can be limited to a few remarks. Since the Lucerne Conference, a number of tests have been carried out and a considerable amount of research has been initiated in many countries. In addition, a significant symposium was organised by Sweden last summer in Göteborg. As a result, four reports were presented to our Conference. I should also mention that thanks to Switzerland we all had the opportunity to attend one of a series of tests which are going on in this country. For that I wish to express once again in the name of all of us our gratitude.

No new proposals were presented in the course of our debate. The co-sponsors of document CDDH/IV/201 maintained their proposal indicating, however, that they were willing to discuss modifications. Much new additional data was submitted. Interest was expressed in the phenomena of tumbling and disintegration of projectiles. However, no generally agreed conclusions could be drawn. One group of experts expressed doubts about the validity and the conclusiveness of the data presented. Some experts, supported by others, suggested the establishment of a technical sub-working-group to discuss a generally acceptable standard test. On the basis of the agenda contained in document COLU/GG/INF/203, this sub-working-group discussed various aspects of a possible standard test. Although owing to the complexity of the subject no such standard test could be agreed upon, the working group did stress the importance of the continuation or initiation of future study and research at the national level. International exchanges of views and co-operation were also considered to be desirable. The officers of

this group deserve our appreciation for the remarkable efforts they have made in accomplishing their difficult task.

Coming to the next item of our agenda concerning *blast and fragmentation weapons*, let me tell you briefly how I see the present stage of our work:

Some new data were presented on the rate of incapacitation and of mortality caused by fragmentation weapons. In addition various techniques for the detection of fragments in the human body were explored.

One group of experts maintained the proposal in document CDDH/IV/201 aiming at the prohibition of the use of anti-personnel fragmentation weapons and flechettes. Another group was of the view that such general prohibition was neither helpful from the humanitarian point of view nor feasible as regards military requirements. Yet other experts thought that some restriction of use could be conceivable although the proposal in document CDDH/IV/201 went too far.

Particular attention was given to the proposal in document COLU/212 presented by one group of experts. This proposal contained a ban on the use of weapons producing fragments non-detectable in the human body. A revised version of this proposal, taking into account some suggestions for its improvement, was generally welcomed by many experts, who considered that it was an excellent basis for future considerations of an instrument on such a ban.

Another working paper (Doc. COLU/218) raised the question of a ban on use of fragmentation weapons which spread irregularly shaped fragments and, as a consequence, caused extensive wounds.

In addition, two new proposals (Doc. COLU/202 and COLU/209) dealing with fuel-air explosives were submitted. One group of experts welcomed a ban on the anti-personnel use of such weapons. They suggested that because of the limited military application of those weapons at this time, a prohibition would be more effective at this early stage. Other experts argued that fuel-air explosive devices had important military utility, e.g. in destroying minefields, and further careful study was needed as to their alleged inhumane effects.

Lastly, there was a general exchange of views on the issue of *future weapons*. One group of experts expressed its deep concern over new weapons of mass-destruction being developed. With regard to these weapons, they felt that the prohibition of their development was more urgent than the ban of their use in the future. Reference was made in this connection to the efforts undertaken in the framework of the United Nations and in particular of the Disarmament Conference. Lasers,

environmental weapons and microwave devices were particularly mentioned by other experts. Yet other experts shared the concern about new weapons in general, although they pointed out that not all new developments need necessarily be inhumane. They mentioned the so-called "smart bombs" as one example. By their design such bombs would better hit their target, thus being less indiscriminate than others. However, there was general agreement that information on new weapons was lacking to a large extent. For that reason, it was difficult to suggest any specific ban or restriction at this stage. No proposal was presented on this item. No suggestion was made to establish a special working group for these weapons.

In view of the fact that some legal problems will be common to all kinds of possible future bans or restrictions, several experts felt that it would be useful to discuss them in a special *legal sub-working-group*. Accordingly, a working group on legal issues was established. Following its agenda contained in document COLU/GG/INF/202, the group considered such questions as alternative types of agreement, the nature of the obligations, reprisals, the modalities of the entry into force and national as well as international review mechanism. Although some experts argued that, without any knowledge of what might be the final outcome of the efforts made for banning or restricting the use of some specific weapons, it was premature and hence impossible to take any definite position on these legal issues, they did not object to a preliminary exchange of views on the subject. A proposal on the international review mechanism was presented (COLU/GG/LEG/201).

The debate and the different views expressed are well reflected in the report of the sub-group (COLU/GG/LEG/REP/1), to which I have nothing to add. I would only express my gratitude and appreciation to the chairman and the rapporteur of the group for their valuable work. Given the general and preliminary character of the discussion, it was neither intended nor possible to draw any agreed conclusions on the matter at this stage. Yet, on the whole, I think that the exchange of views on some legal aspects, which have never been discussed before, served a very useful purpose.

To sum up, Ladies and Gentlemen, according to my assessment the progress made in the last three weeks—limited as it may be—is nevertheless encouraging. For those, of course, who came to Lugano with high expectations, the outcome of our Conference might seem disappointing. However, others who had less ambitious hopes and a more

modest and realistic attitude, will agree that our common endeavours were worthwhile and the few results achieved promising. There were some other, perhaps even more important, positive aspects in our work worth mentioning, such as a considerable amount of comprehension of opposing views, more flexibility, honest efforts in seeking for wider agreement on some controversial issues and the spirit of co-operation as well as the readiness to continue the work in which we are engaged. In addition, there is a growing awareness of the significance and the importance of the problems discussed.

Undoubtedly, we still have a long way to go and Lugano is but one step further on the road towards the goal of making armed conflicts less inhumane. To this goal we are all committed, otherwise we would not have been here. What is needed is patience combined with determination and goodwill. Past experience shows that you all, who are engaged in this humanitarian adventure, are provided with those virtues and I am confident that they will help us in the future—as they did in the past—to achieve our goals.

*EXTERNAL ACTIVITIES***Africa****Angola**

Operations Director's mission. — From 25 February to 7 March 1976, Mr. J.-P. Hocké, Director of the Operations Department, was in Luanda. The purpose of his visit was to discuss with the authorities of the People's Republic of Angola what would be the activities of the ICRC in the post-war situation. Mr. Hocké had talks with the Prime Minister, Mr. Lopo di Nascimento, and with the Minister for Health and the Director of Information and Security. He also met leaders of the Angolan Red Cross, a Society which is in process of formation.

All the problems relating to the Geneva Conventions were raised in the course of those meetings, in particular those concerning prisoners who were still in the hands of one or the other of the parties. A new operational plan prepared by the ICRC for a period of six months—including plans for sending nearly a dozen mobile medical teams—was also submitted to the Government of the People's Republic of Angola for approval.

The Director of the Operations Department was accompanied by Mrs. J. Egger, who is in charge of the Angola action in Geneva, and who had various meetings with officials at the Ministries of Foreign Affairs and Defence.

Delegation activities. — In the course of the last few weeks, the ICRC delegation continued its action in the fields of protection (visiting prisoners, forwarding family messages, recording names of missing persons) and of assistance (giving medical and surgical treatment, distributing food to needy persons). In the *People's Republic of Angola*, the delegation consisted on 15 March of 26 persons: 8 delegates in Luanda, 8 delegates in Huambo, and three medico-surgical teams made available by the Red

Cross Societies of Sweden, Switzerland and the United Kingdom, at the hospitals at Dalatando, Huambo and Vouga.

The 142 detainees held in Grafanil Camp in Luanda, who were visited regularly by the ICRC delegates, have now been released.

The ICRC has despatched to Angola, since it started its action, over 830 tons of relief supplies—consisting of medical supplies, food and 20,000 blankets—to a value of 3.1 million Swiss francs. These supplies were distributed, either by the ICRC delegates themselves or by the ICRC in co-operation with the authorities and local Red Cross branches, to prisoners, displaced persons, orphaned children and to many hospitals and dispensaries in various parts of Angola.

Zaire

The ICRC despatched one of its delegates and a mobile medical team to Zaire, where emergency aid was given to some 20,000 Angolan refugees who had newly arrived in the south of Zaire. The aid consisted in distributing relief material and organizing, in conjunction with local missionary bodies, dispensaries in refugee centres.

Namibia

In mid-March the ICRC delegation at Windhoek was composed of five delegates. Their work was essentially to distribute relief to displaced persons in four camps in the south of Angola. Fifty tons of material—tents, clothing, medicaments and food—were distributed by them to those displaced persons. A large part of the material consisted of donations from National Societies, governments and various organizations.

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* * *

The ICRC delegate in Southern Africa, Mr. N. de Rougemont, visited three wounded Cubans in a Pretoria hospital.

Negotiations are in progress between the ICRC and all the parties with a view to allowing the ICRC to discharge its tasks under the Conventions for the benefit of all persons who are still detained.

The Republic of Cape Verde

For the first time since the Republic of Cape Verde became independent in July 1975, a mission was undertaken in that country by Mr. M. Schroeder, ICRC regional delegate for West Africa, from 22 to 29 February 1976. He was received in audience by the Prime Minister, Mr. Pedro

Pines, and by the Ministers for Foreign Affairs, Health, Defence and Education. Various topics of mutual concern were discussed, including Cape Verde's accession to the Geneva Conventions of 1949 and the ICRC's activities throughout the world.

The ICRC delegate also met members of the Cape Verde Red Cross Society, founded in July 1975, and two delegates of the League of Red Cross Societies. This new Society is taking part in relief operations organized by the Government for the benefit of several thousand persons repatriated from Angola and of victims of the drought. Assistance is being furnished by the League and by several National Societies which are sending money and various articles such as tents, blankets, clothing, medicaments and food.

Latin America

ICRC delegate general's mission

In February, Mr. S. Nessi, ICRC delegate general for Latin America, went to Guatemala, Nicaragua, Panama, Haiti, Uruguay and Chile.

In *Guatemala* and *Panama* Mr. Nessi stayed a short time during which he met leaders of each National Society and a number of government officials with whom he discussed subjects of mutual concern. In *Nicaragua*, which he visited together with Mr. C. du Plessis, the regional delegate for Central America and the Caribbean, Mr. Nessi conferred with the Ministers for Foreign Affairs and the Interior, with a view to obtaining further facilities for the ICRC's work of protection and assistance for persons detained in connection with events affecting that country.

In *Haiti*, Mr. Nessi was received in audience by Mr. J.-C. Duvalier, Life President of the Republic of Haiti. He also met the Ministers for Foreign Affairs, the Interior and Justice, and the President of the Haiti Red Cross, Dr. Victor Laroche. The talks centered on the ICRC's role and activities and resulted in Mr. Nessi's obtaining authorization for the ICRC to visit all civilian places of detention in the country. He then paid a visit to the national penitentiary in Port-au-Prince; this will be followed by further visits by the ICRC regional delegate for Latin America and the Caribbean. The last time the ICRC had made such visits was in 1974.

In *Uruguay*, Mr. Nessi had talks with the Commanders in Chief of the Armed Forces, concerning ICRC visits to places of detention, which were suspended in 1974. He was given the assurance that the ICRC would be allowed to visit both civilian and military places of detention whenever it wished to do so. Other topics, in particular concerning assistance, were also discussed.

Before returning to Switzerland, Mr. Nessi went to Chile, in order to meet the staff of the ICRC delegation in Santiago and to confer with the authorities, particularly with the Minister for Foreign Affairs, about various questions concerning current ICRC activities.

Chile

During the six months from 1 July to 31 December 1975, the ICRC delegation in Chile, numbering about ten delegates, made a total of 107 visits to 80 places of detention, containing about 3,500 detainees.

The delegation continued making visits at regular intervals during this period to a place of detention controlled by a security organization. It was impossible, however, despite numerous requests, to obtain permission to interview the detainees without witness and to gain access to any of the other places of detention under the authority of this security body.

Some places of detention in the provinces, under the control of military intelligence services, were also visited, and the ICRC delegates distributed medicaments and various relief items to the detainees. The relief materials, to a value of about 30,000 dollars, consisted in large part of gifts from National Societies and Governments.

Through 47 distribution centres throughout the country, the ICRC pursued its assistance programme to families of detainees. About 2,000 families received food every month, and some of them also received financial assistance. The total value of such aid was approximately 140,000 dollars.

During this six-month period, the Central Tracing Agency continued its efforts to locate missing persons, whose names it communicated to the Chilean authorities. Each case, containing a description of the circumstances leading to the person's detention as related by the family, was submitted separately. Confirmation of detention was obtained in about half the cases, while the remainder were still being investigated at the end of the year.

Colombia

In the course of a mission to Colombia from 4 to 22 February 1976, Mr. E. Leemann, ICRC regional delegate for countries of the Andes, visited seven places of detention containing some 13,000 detainees, including about twenty persons detained for reasons of a political nature. He was able to check on the use made of the medicines sent by the ICRC for detainees and distributed jointly with the National Society.

Asia

Further repatriations

From 26 to 29 February 1976, a number of aliens living in Saigon were repatriated under the auspices of the ICRC, which had chartered an aircraft for that purpose. This operation followed close upon that reported by *International Review* in its February issue.

Two flights, on 26 and 27 February, carried 489 Yemenites to their homeland. A third flight took place on 29 February via Madras to Karachi, when 224 Indians and 22 Pakistanis were flown back to their country.

The repatriates were all welcomed on their arrival by their respective National Societies. Mention should be made of the special effort made by the emergent Red Crescent Society of the Yemen Arab Republic, which has taken upon itself the duty of looking after those persons who could not be reintegrated immediately into Yemenite society.

Thailand

The International Red Cross delegation in Bangkok, composed of seven persons and a number of local staff, continued its work in aid of Indo-Chinese refugees sheltering in camps. The main jobs are to record new arrivals, observe general living conditions in the 35 camps, take note of emergency cases requiring immediate attention by the Government or the Thai Red Cross, and visit and provide necessary relief to the refugees detained in provincial police stations for illegal entry into Thailand.

International Red Cross material assistance to the refugees, who number about 65,000 persons, is now restricted to medical aid, through the Thai Red Cross. For this purpose, the National Society has received since 1 January 1976 the following contributions:

- | | |
|--|---------------|
| (1) Relief fund of the International Red Cross
(INDSEC) | 117,000 US \$ |
| (2) First instalment of UNHCR-Government
aid programme | 100,000 US \$ |
| (3) Canadian Government | 200,000 US \$ |

These contributions should permit the National Society to continue its action until October 1976.

Timor

Having failed for the present to obtain authorization to send a mission to East Timor despite repeated approaches to the authorities concerned, the ICRC closed down its office in Darwin, in the Northern Territory of Australia. The two delegates who were stationed there returned to Geneva at the end of February.

The ICRC also recalled to Geneva its delegate in Djakarta, after it had instructed him to hand the Indonesian authorities a memorandum on the ICRC's efforts to perform its duties in East Timor and a request for Indonesian Government support for the resumption of its activities in aid of the victims of the events.

Middle East

Lebanon

Opened on 13 February 1976, before representatives of the Ministry of Health, the Lebanese Red Cross and the "Palestinian Red Crescent", the field hospital set up by the ICRC south of Beirut treated about seventy cases a day during its first few weeks of activity.¹ The hospital was made possible by the Red Cross Societies of Denmark, Finland, Norway and Sweden, which also provided the medical personnel of three doctors, five nurses and a technician.

From late September 1975 to the beginning of March 1976, the ICRC despatched to Beirut 145 tons of relief—mainly medicaments and food—to a value of 2.7 million Swiss francs, in aid of the victims of the events. The ICRC relief supplies were delivered to the Ministry of Health in Lebanon, the Lebanese Red Cross, the "Palestinian Red Crescent", various hospitals in Beirut and different local organizations. ICRC delegates also made some distributions direct to the population of the Akkhar region in the north of Lebanon.

This action was made possible by donations reaching the ICRC from a number of National Red Cross Societies, Governments and international organizations.

Europe

Portugal

Mr. F. Payot, ICRC delegate, was again in Portugal from 23 February to 5 March 1976, when he visited all the 431 political detainees in that

¹ *Plate.*

country. Mr. Payot went to the prisons at Caxias, Coimbra, Alcoentre, Porto, Trafaria, Santarem and Penisce, and to the hospital of the penitentiary of Sao Joao de Deus. He was granted authorization to speak without witness with the detainees, most of whom were members of the ex-PIDE and servicemen arrested in connection with the events of 11 March and 25 November 1975. Previous visits to Portuguese political detainees were carried out by Mr. Payot in November and December 1975.

With the support of the authorities and the co-operation of the Portuguese Red Cross, the ICRC provided financial assistance to families of political detainees who were in particularly distressful circumstances.

Mr. Payot was received by several members of the Government, including Mr. Medeiros Ferreira, Secretary of State at the Ministry of Foreign Affairs, and Captain Souza Castro, member of the Revolution Council. He also had several meetings with the Portuguese Red Cross, presided over by Colonel Tender, a doctor in the Armed Forces Medical Services.

IN THE RED CROSS WORLD

RED CROSS SEMINAR IN UGANDA

At the suggestion of the ICRC, a seminar was held in Kampala from 16 to 27 February 1976. It was attended by sixty participants, including twenty-one members of the armed forces, ten from the police force, eleven from the prisons service and eleven from the Ministry of Provincial Administration, while the Ministry of Health sent a number of observers. The ICRC was represented by three delegates, Mr. Gaillard-Moret, Mr. Bédert and Mr. Borel, and the League by Mr. Weyand.

The seminar was divided in two parts, the first part being devoted to lectures followed by discussions on the history and organization of the Red Cross movement, the principles of international humanitarian law, the Geneva Conventions, current ICRC and League activities and the deliberations of the Diplomatic Conference. The second part consisted in first aid courses and practical first-aid training directed by Mr. Weyand.

After the official opening of the seminar by leading Uganda Red Cross officers, Dr. P. Nsereko, dean of the Faculty of Law, Makerere University, spoke on the principles of international humanitarian law. He was followed by Mr. Otto of the Law Development Centre who analysed the similarities and differences between African tradition and international humanitarian law. The ICRC delegates next addressed the participants on various subjects. The lively discussions which ensued and the excellent results obtained by the participants at the final examinations bore witness to the keen interest they displayed in the topics presented. Extensive documentary material had been earlier distributed to them and the films that were shown gave additional illustrations of ICRC activities for the protection of victims, and of Red Cross action for peace.

At the closing session, in the course of which certificates were distributed, the Head of State, Field Marshal Idi Amin Dada, in his address, thanked the ICRC for organizing the seminar and expressed the hope that the Uganda Red Cross would become ever more efficient and active. He

Philippines: In Manila the honorary ICRC delegate reviews the services of Miss Irene F. Francia, the recipient of the Florence Nightingale Medal. (Centre, the chairman of the Philippine Red Cross International Affairs Committee.)



Lebanon: the ICRC field hospital, Beirut.





Kampala: Marshal Idi Amin Dada accompanied by delegates of the ICRC and the League. (Centre, the General Secretary of the National Red Cross Society.)

UGANDA

Participants in the Red Cross seminar.



emphasized that it was the duty of the participants attending the seminar to pass on the knowledge they had acquired to those who were serving under their orders and to help in promoting, first of all, the diffusion of the Geneva Conventions. He concluded by saying: "I would like to remind you that Red Cross is non-political, non-sectarian and is purely based on the fundamental principles of humanitarianism. It is for this reason that the Red Cross is officially recognized by Governments and its activities accepted . . . I appeal, once again, to the people of Uganda and the world at large to support this world-wide movement for the good of humanity."¹

PHILIPPINES

As mentioned in our May 1975 issue, one of the recipients of the twenty-fifth award of Florence Nightingale Medals was a Filipino nurse, *Miss Irene F. Francia*. She was presented with the medal during the eleventh national assembly of the Philippine Red Cross Society in Manila on 11 December.

After Mr. Robert Oefeli, the ICRC honorary delegate in the Philippines had addressed the assembly describing Miss Francia's exceptional service and the significance of the award, the medal was pinned to her blouse by Mr. Mamintal A. Tamono, chairman of the International Affairs Committee, who expressed the congratulations and best wishes of the National Society he represented.¹

¹ *Plates.*

HENRY DUNANT INSTITUTE

The Assembly and Board of the Henry Dunant Institute met on 15 March 1976 under the chairmanship of Mr. H. P. Tschudi, Member of the International Committee of the Red Cross.

Each member institution appoints in turn the chairman of the Institute's Assembly for a period of two years. From May 1976 it will be a representative of the League of Red Cross Societies who will fulfil that function, and on the League's proposal, the Assembly called upon Mr. Walter Bargatzky, to act as its chairman for the next two years. Mr. Bargatzky, President of the German Red Cross in the Federal Republic of Germany, is a well-known figure in the Red Cross world and has always actively shown his interest in the Henry Dunant Institute's work.

At that same meeting, the 1975 accounts were approved, after which the present and future tasks of the Institute and the mandates given to it by the member institutions were discussed at length.

SWEDISH RED CROSS SEMINAR

At the invitation of the Swedish Red Cross Society, Mr. J. Moreillon, Director of the ICRC Department of Principles and Law, took part in a seminar for the press organized by the Society and by the Association of Journalists of Sweden at the end of February in Stockholm.

The twenty journalists present heard a paper by Professor H. Blix, Ambassador, on the Protocols additional to the Geneva Conventions, and another by Mr. O. Stroh, General Secretary of the Swedish Red Cross, on the role of journalists in disseminating Red Cross principles and international humanitarian law.

Mr. Moreillon, in his address, gave an account of the current activities of the ICRC and, like the previous speakers, replied to a great number of questions afterwards. The journalists took part in an exercise—a marked success—which required them to imagine that they were ICRC delegates and to decide how they would act in a specific situation. They said that they were pleased, as were the leading members of the National Society who attended the seminar, to have had the opportunity thus offered to get to know more about the ICRC and the steadily increasing number of duties facing it in these times.

Also during his visit to Stockholm, Mr. Moreillon spoke to the Central Committee of the Swedish Red Cross on the problem of political detainees as the ICRC sees it, and met several prominent personalities in the Ministry for Foreign Affairs.

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

A CONTEMPORARY ACCOUNT OF SOLFERINO

The Canadian Red Cross has sent us an article which was published by the Toronto Weekly Message in its issue of 16 July 1859, only a few days after the Battle of Solferino. It well illustrates the mood of people all over the world when they heard of the slaughter which caused so much pain and suffering. Dunant's book gave the fullest account of the carnage and produced the most lasting results because in addition to relating the horrors of war it offered constructive proposals to moderate them.

Under the heading "Mightiest Battle of the Age We Live In", the Canadian paper alluded to the huge number of men thrown into the battle, and the figures which it gave of the dead, wounded and missing were an eloquent appeal to find a means of avoiding such disasters.

"Three hundred thousand men scientifically engaged in murdering one another with all the terrible weapons and machinery of death which experience has enabled man to arm himself with ! Such was the horrible encounter at Solferino, which lasted from sunrise on Friday, June 24th, until the darkness of night compelled the infuriated combatants to stop the deadful slaughter.

"After sixteen hours of thundering sounds and dense smoke, and shrill death shrieks, and the rush of squadrons shaking the earth, and the measured tramp of many thousands marching to death, and of the shouts of multitudes in strong excitement, the turmoil subsides and we are told that upon one side alone 35,000 killed and wounded are stretched upon the plain. No eye can take it all in, for it extends beyond human vision; no ear can hear it all, for the boom of the cannon which tears a chasm through the human mass at the wing is inaudible at the centre; a single groan is lost in such a chaos of butchery as this. . .

"The Austrians left behind them when they retreated after their defeat, about 50,000 men killed, wounded, maimed and prisoners."

WORLD HEALTH DAY

World Health Day, 7 April, is an annual event marking the anniversary of the coming into force of the Constitution of the World Health Organization. Its aim is to interest the public in a theme of importance for the health of mankind. The theme for 1976 is: "Foresight Prevents Blindness", about which Dr H. Mahler, Director-General of the World Health Organization said:

There are at least 10 million totally blind people in the world today. Millions more have such defective sight that they must be regarded as blind for the purpose of education, work and social assistance. Their numbers are increasing and unless action is taken they could double in the next 25 years.

Throughout the developing world, two-thirds of this blindness is estimated to be preventable or curable. Even in the most advanced countries much of the blindness is preventable.

Prevention is important in all the world but particularly in the developing world where most preventable blindness occurs—that caused by trachoma, xerophthalmia and onchocerciasis—and where cure is possible only to the few because of lack of adequate health services.

Early treatment will cure trachoma before the eye is damaged; administration of vitamin A to children will prevent xerophthalmia; vector control will prevent onchocerciasis.

Other more long-term measures also have a part to play in controlling eye infections—better sanitation; cleaner and more abundant water; improvement of personal and environmental hygiene.

In all parts of the world simple measures would make an immediate impact on the problem. Education of health workers and parents on these measures is necessary.

For example:

- Early detection and early treatment of eye trouble, especially in children. This means impressing on health workers and parents the importance of simple regular inspections;
- Provision of eye protectors for certain workers and insistence on their being worn; control of dangerous tools in industry; improvements in the safety of toys.

Blindness caused by cataract could and should be treated on a large scale by simple and cheap operations in countries of high incidence.

To a large extent the resources are there; it is a question of utilizing them and putting men and money into their application.

Half a dollar will treat a case of trachoma—5 dollars will remove a cataract—12 US cents will buy enough vitamin A to protect a child from xerophthalmia for a year.

Many governments already have highpowered blindness prevention campaigns under way. We hope that many more will be encouraged to follow suit, and perhaps to accord still higher priorities to such campaigns. Loss of sight is not merely a personal tragedy for the individual concerned: it represents a marked loss in strictly financial terms for the national wealth of the country where he or she lives.

Prevention of blindness is a relatively uncomplex field of medical activity where we can say: the more funds and the more practical assistance we receive, the more positive good we can bring about in the world. Forewarned, fore-armed and with foresight, we can make sure that our World Health Day slogan has real meaning in every corner of our planet: foresight *can* prevent blindness.

BOOKS AND REVIEWS

Health for all by the Year 2000, *H. Mahler, WHO Chronicle, Geneva, 1975.*

... The most important criteria for appropriate ways of attaining health are their relevance to social progress and their economic feasibility. The first principle in this new approach is that the distribution of health resources is as important as their quality and quantity. Resources are only too often allocated to central institutions, become proportionately scantier in direct ratio to the distance from the main cities, and are non-existent or almost non-existent in rural areas. This maldistribution is not only spatial but also technical. The specialized curative services of the developed countries are only too often copied in the developing countries, leaving a scanty residue of resources for the promotion of environmental health and for primary health care. The time is now long overdue for a reduction of the growing disparity in the distribution of health resources not only between countries but also within countries. This redistribution must take account of population growth, which is often most rapid among the socially poor.

The second principle, namely that of social penetration, follows from the first. It is necessary to start by allocating resources to the social periphery and by a determined effort to ensure that socially peripheral populations participate fully in identifying their own health and other social problems and in seeking solutions for them. In their search they will no doubt encounter problems that require solutions beyond their ken. These are the problems that should concern the more central tiers of the health and other social systems as well as the political, administrative, and environmental authorities. This may sound like social planning in reverse. It is not. Social penetration has to be planned carefully from the centre, and I shall return to that.

Rural populations in developing countries are particularly underprivileged with respect to health care and social development in general, and even if they are not always aware of the possibility of making overall social and economic progress they are usually interested in improving their health. This interest should be fully mobilized; communities should be encouraged to take the initiative in developing simple health measures of their own, such as finding local solutions for drinking-water supplies and wastes disposal, the protection of houses against insects and rodents, and the provision of elementary health care. It should be possible to train locally recruited health agents, including, wherever appropriate, traditional healers and midwives, to participate under suitable supervision in providing a minimal standard of care during the antepartum, intrapartum, and postpartum periods; in family planning; in infant and early childhood care; in nutritional guidance; in immunization against the major infectious diseases; in elementary curative care of all age groups for disease and injury; in basic sanitation with safe water; and in unsophisticated health education with respect to the prevailing health problems and methods of preventing and controlling them. The conditions for success are community

BOOKS AND REVIEWS

enthusiasm and determination, a continuing process of motivating and training local health agents, and the full technical and moral support of the next tier up in the health service structure.

This reawakening of interest in health promotion could surely be harnessed to other aspects of social development. Discussions on nutrition could promote interest in local measures to increase food production. The protection of homes against disease vectors and the improvement of local wastes disposal measures could bring about a general improvement in the standard of cleanliness in the home and its surroundings. Education in health matters, such as basic sanitation, infant and child rearing, family planning, and nutrition, could give an impetus to individual and community self-learning in general. There is ample evidence from a number of countries that the vicious circle of social poverty can be broken. Naturally, local patterns of community life would determine the manner of community participation, but the genuine participation of individuals, families, and community leaders covering the whole range of social and technical endeavour in the community cannot fail to lead to mass action for change...

EXTRACT FROM THE STATUTES OF
THE INTERNATIONAL COMMITTEE OF THE RED CROSS

ADOPTED 21 JUNE 1973

ART. 1. — *International Committee of the Red Cross*

1. The International Committee of the Red Cross (ICRC), founded in Geneva in 1863 and formally recognized in the Geneva Conventions and by International Conferences of the Red Cross, shall be an independent organization having its own Statutes.

2. It shall be a constituent part of the International Red Cross.¹

ART. 2. — *Legal Status*

As an association governed by Articles 60 and following of the Swiss Civil Code, the ICRC shall have legal personality.

ART. 3. — *Headquarters and Emblem*

The headquarters of the ICRC shall be in Geneva.

Its emblem shall be a red cross on a white ground. Its motto shall be *Inter arma caritas*.

ART. 4. — *Role*

1. The special role of the ICRC shall be :

- (a) to maintain the fundamental principles of the Red Cross as proclaimed by the XXth International Conference of the Red Cross ;
- (b) to recognize any newly established or reconstituted National Red Cross Society which fulfils the conditions for recognition in force, and to notify other National Societies of such recognition ;
- (c) to undertake the tasks incumbent on it under the Geneva Conventions, to work for the faithful application of these Conventions and to take cognizance of any complaints regarding alleged breaches of the humanitarian Conventions ;

¹ The International Red Cross comprises the National Red Cross Societies, the International Committee of the Red Cross and the League of Red Cross Societies. The term "National Red Cross Societies" includes the Red Crescent Societies and the Red Lion and Sun Society.

- (d) to take action in its capacity as a neutral institution, especially in case of war, civil war or internal strife ; to endeavour to ensure at all times that the military and civilian victims of such conflicts and of their direct results receive protection and assistance, and to serve, in humanitarian matters, as an intermediary between the parties ;
- (e) to ensure the operation of the Central Information Agencies provided for in the Geneva Conventions ;
- (f) to contribute, in view of such conflicts, to the preparation and development of medical personnel and medical equipment, in co-operation with the Red Cross organizations, the medical services of the armed forces, and other competent authorities ;
- (g) to work for the continual improvement of humanitarian international law and for the better understanding and diffusion of the Geneva Conventions and to prepare for their possible extension ;
- (h) to accept the mandates entrusted to it by the International Conferences of the Red Cross.

2. The ICRC may also take any humanitarian initiative which comes within its role as a specifically neutral and independent institution and consider any question requiring examination by such an institution.

ART. 6 (first paragraph). — *Membership of the ICRC*

The ICRC shall co-opt its members from among Swiss citizens. It shall comprise fifteen to twenty-five members.



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BALAIR

ADDRESSES OF NATIONAL SOCIETIES

- AFGHANISTAN — Afghan Red Crescent, Puli Artan, *Kabul*.
- ALBANIA — Albanian Red Cross, 35, Rruga e Barrikadavet, *Tirana*.
- ALGERIA — Algerian Red Crescent Society, 15 bis, Boulevard Mohamed V, *Algiers*.
- ARGENTINA — Argentine Red Cross, H. Yrigoyen 2068, *Buenos Aires*.
- AUSTRALIA — Australian Red Cross, 122 Flinders Street, *Melbourne 3000*.
- AUSTRIA — Austrian Red Cross, 3 Gusshausstrasse, Postfach 39, *Vienna 4*.
- BAHRAIN — Bahrain Red Crescent Society, P.O. Box 882, *Manama*.
- BANGLADESH — Bangladesh Red Cross Society, Amin Court Building, Motijheel Commercial Area, *Dacca 2*.
- PEOPLE'S REPUBLIC OF BENIN — Red Cross of Benin, B. P. 1, *Porto Novo*.
- BELGIUM — Belgian Red Cross, 98 Chaussée de Vleurgat, *1050 Brussels*.
- BOLIVIA — Bolivian Red Cross, Avenida Simón Bolívar, 1515, *La Paz*.
- BOTSWANA — Botswana Red Cross Society, Independence Avenue, P.O. Box 485, *Gaborone*.
- BRAZIL — Brazilian Red Cross, Praça Cruz Vermelha 10-12, *Rio de Janeiro*.
- BULGARIA — Bulgarian Red Cross, 1, Boul. Biruzov, *Sofia 27*.
- BURMA (Socialist Republic of the Union of) — Burma Red Cross, 42 Strand Road, Red Cross Building, *Rangoon*.
- BURUNDI — Red Cross Society of Burundi, rue du Marché 3, P.O. Box 324, *Bujumbura*.
- CAMBODIA — The new address of the Red Cross Society is not yet known.
- CAMEROON — Cameroon Red Cross Society, rue Henry-Dunant, P.O.B. 631, *Yaoundé*.
- CANADA — Canadian Red Cross, 95 Wellesley Street East, *Toronto, Ontario, M4Y 1H6*.
- CENTRAL AFRICAN REPUBLIC — Central African Red Cross, B.P. 1428, *Bangui*.
- CHILE — Chilean Red Cross, Avenida Santa María 0150, Correo 21, Casilla 246V., *Santiago de Chile*.
- CHINA — Red Cross Society of China, 22 Kanmien Hutung, *Peking, E*.
- COLOMBIA — Colombian Red Cross, Carrera 7a, 34-65, Apartado nacional 1110, *Bogotá D.E.*
- COSTA RICA — Costa Rican Red Cross, Calle 14, Avenida 8, Apartado 1025, *San José*.
- CUBA — Cuban Red Cross, Calle 23 201 esq. N. Vedado, *Havana*.
- CZECHOSLOVAKIA — Czechoslovak Red Cross, Thunovska 18, 118 04 *Prague I*.
- DENMARK — Danish Red Cross, Ny Vestergade 17, DK-1471 *Copenhagen K*.
- DOMINICAN REPUBLIC — Dominican Red Cross, Apartado Postal 1293, *Santo Domingo*.
- ECUADOR — Ecuadorian Red Cross, Calle de la Cruz Roja y Avenida Colombia, 118, *Quito*.
- EGYPT (Arab Republic of) — Egyptian Red Crescent Society, 34 rue Ramses, *Cairo*.
- EL SALVADOR — El Salvador Red Cross, 3a Avenida Norte y 3a Calle Poniente, *San Salvador, C.A.*
- ETHIOPIA — Ethiopian Red Cross, Ras Desta Damtew Avenue, *Addis Ababa*.
- FIJI — Fiji Red Cross Society, 193 Rodwell Road, P.O. Box 569, *Suva*.
- FINLAND — Finnish Red Cross, Tehtaankatu 1 A, Box 168, *00141 Helsinki 14*.
- FRANCE — French Red Cross, 17 rue Quentin Bauchart, F-75384 *Paris CEDEX 08*.
- GAMBIA — The Gambia Red Cross Society, P.O. Box 472, *Banjul*.
- GERMAN DEMOCRATIC REPUBLIC — German Red Cross in the German Democratic Republic, Kaitzerstrasse 2, DDR 801 *Dresden 1*.
- GERMANY, FEDERAL REPUBLIC OF — German Red Cross in the Federal Republic of Germany, Friedrich-Ebert-Allee 71, 5300, *Bonn 1*, Postfach (D.B.R.).
- GHANA — Ghana Red Cross, National Headquarters, Ministries Annex A3, P.O. Box 835, *Accra*.
- GREECE — Hellenic Red Cross, rue Lycavittou 1, *Athens 135*.
- GUATEMALA — Guatemalan Red Cross, 3a Calle 8-40, Zona 1, *Ciudad de Guatemala*.
- GUYANA — Guyana Red Cross, P.O. Box 351, Eve Leary, *Georgetown*.
- HAITI — Haiti Red Cross, Place des Nations Unies, B.P. 1337, *Port-au-Prince*.
- HONDURAS — Honduran Red Cross, 1a Avenida entre 3a y 4a Calles, N° 313, *Comayagüela, D.C.*
- HUNGARY — Hungarian Red Cross, V. Arany János utca 31, *Budapest V*. Mail Add.: *1367 Budapest 5*, Pf. 249.
- ICELAND — Icelandic Red Cross, Nóatúni 21, *Reykjavik*.
- INDIA — Indian Red Cross, 1 Red Cross Road, *New Delhi 110001*.
- INDONESIA — Indonesian Red Cross, Jalan Abdul Muis 66, P.O. Box 2009, *Djakarta*.
- IRAN — Iranian Red Lion and Sun Society, Av. Villa, Carrefour Takhté Djamchid, *Teheran*.
- IRAQ — Iraqi Red Crescent, Al-Mansour, *Baghdad*.
- IRELAND — Irish Red Cross, 16 Merrion Square, *Dublin 2*.
- ITALY — Italian Red Cross, 12 via Toscana, *Rome*.
- IVORY COAST — Ivory Coast Red Cross Society, B.P. 1244, *Abidjan*.
- JAMAICA — Jamaica Red Cross Society, 76 Arnold Road, *Kingston 5*.
- JAPAN — Japanese Red Cross, 29-12 Shiba 5-chome, Minato-Ku, *Tokyo 108*.
- JORDAN — Jordan National Red Crescent Society, P.O. Box 10 001, *Amman*.
- KENYA — Kenya Red Cross Society, St. John's Gate, P.O. Box 40712, *Nairobi*.
- KOREA, DEMOCRATIC PEOPLE'S REPUBLIC OF — Red Cross Society of the Democratic People's Republic of Korea, *Pyongyang*.
- KOREA, REPUBLIC OF — The Republic of Korea National Red Cross, 32-3Ka Nam San-Dong, *Seoul*.
- KUWAIT — Kuwait Red Crescent Society, P.O. Box 1350, *Kuwait*.
- LAOS — Lao Red Cross, P.B. 650, *Vientiane*.
- LEBANON — Lebanese Red Cross, rue Général Spears, *Beirut*.
- LESOTHO — Lesotho Red Cross Society, P.O. Box 366, *Maseru*.

- LIBERIA — Liberian National Red Cross, National Headquarters, 107 Lynch Street, P.O. Box 226, *Monrovia*.
- LIBYAN ARAB REPUBLIC — Libyan Arab Red Crescent, P.O. Box 541, *Benghazi*.
- LIECHTENSTEIN — Liechtenstein Red Cross, *Vaduz*.
- LUXEMBOURG — Luxembourg Red Cross, Parc de la Ville, C.P. 1806, *Luxembourg*.
- DEMOCRATIC REPUBLIC OF MADAGASCAR — Red Cross Society of the Malagasy Republic, rue Clemenceau, P.O. Box 1168, *Tananarive*.
- MALAWI — Malawi Red Cross, Hall Road, *Blantyre* (P.O. Box 30080, Chichiri, *Blantyre* 3).
- MALAYSIA — Malaysian Red Crescent Society, 519 Jalan Belfield, *Kuala Lumpur* 08-03.
- MALI — Mali Red Cross, B.P. 280, route de Koulikora, *Bamako*.
- MAURITANIA — Mauritanian Red Crescent Society, B.P. 344, Avenue Gamal Abdel Nasser, *Nouakchott*.
- MEXICO — Mexican Red Cross, Avenida Ejército Nacional n° 1032, *México 10 D.F.*
- MONACO — Red Cross of Monaco, 27 boul. de Suisse, *Monte Carlo*.
- MONGOLIA — Red Cross Society of the Mongolian People's Republic, Central Post Office, Post Box 537, *Ulan Bator*.
- MOROCCO — Moroccan Red Crescent, B.P. 189, *Rabat*.
- NEPAL — Nepal Red Cross Society, Tahachal, P.B. 217, *Kathmandu*.
- NETHERLANDS — Netherlands Red Cross, 27 Prinsessegracht, *The Hague*.
- NEW ZEALAND — New Zealand Red Cross, Red Cross House, 14 Hill Street, *Wellington 1* (P.O. Box 12-140, *Wellington North*.)
- NICARAGUA — Nicaraguan Red Cross, *Managua*, D.N.
- NIGER — Red Cross Society of Niger, B.P. 386, *Niamey*.
- NIGERIA — Nigerian Red Cross Society, Eko Aketa Close, off St. Gregory Rd., P.O. Box 764, *Lagos*.
- NORWAY — Norwegian Red Cross, Parkveien 33b, *Oslo*. Mail Add.: *Postboks 7034 H-Oslo 3*.
- PAKISTAN — Pakistan Red Crescent Society, Dr Daudpota Road, *Karachi 4*.
- PANAMA — Panamanian Red Cross, Apartado Postal 668, *Zona 1, Panamá*.
- PARAGUAY — Paraguayan Red Cross, Brasil 216, *Asunción*.
- PERU — Peruvian Red Cross, Jirón Chancay 881, *Lima*.
- PHILIPPINES — Philippine National Red Cross, 860 United Nations Avenue, P.O.B. 280, *Manila D-406*.
- POLAND — Polish Red Cross, Mokotowska 14, *Warsaw*.
- PORTUGAL — Portuguese Red Cross, Jardim 9 de Abril, 1 a 5, *Lisbon 3*.
- ROMANIA — Red Cross of the Socialist Republic of Romania, Strada Biserica Amzei 29, *Bucarest*.
- SAN MARINO — San Marino Red Cross, Palais gouvernemental, *San Marino*.
- SAUDI ARABIA — Saudi Arabian Red Crescent, *Riyadh*.
- SENEGAL — Senegalese Red Cross Society, Bd Franklin-Roosevelt, P.O.B. 299, *Dakar*.
- SIERRA LEONE — Sierra Leone Red Cross Society, 6A Liverpool Street, P.O.B. 427, *Freetown*.
- SINGAPORE — Singapore Red Cross Society, 15 Penang Lane, *Singapore 9*.
- SOMALI REPUBLIC — Somali Red Crescent Society, P.O. Box 937, *Mogadishu*.
- SOUTH AFRICA — South African Red Cross, Cor. Kruis & Market Streets, P.O.B. 8726, *Johannesburg 2000*.
- SPAIN — Spanish Red Cross, Eduardo Dato 16, *Madrid 10*.
- SRI LANKA — Sri Lanka Red Cross Society, 106 Dharmapala Mawatha, *Colombo 7*.
- SUDAN — Sudanese Red Crescent, P.O. Box 235, *Khartoum*.
- SWEDEN — Swedish Red Cross, Fack, S-104 40 *Stockholm 14*.
- SWITZERLAND — Swiss Red Cross, Taubenstrasse 8, B.P. 2699, *3001 Berne*.
- SYRIAN ARAB REPUBLIC — Syrian Red Crescent, Bd Mahdi Ben Barake, *Damascus*.
- TANZANIA — Tanzania Red Cross Society, Upanga Road, P.O.B. 1133, *Dar es Salaam*.
- THAILAND — Thai Red Cross Society, Paribatra Building, Chulalongkorn Memorial Hospital, *Bangkok*.
- TOGO — Togolese Red Cross Society, 51 rue Boko Soga, P.O. Box 655, *Lomé*.
- TRINIDAD AND TOBAGO — Trinidad and Tobago Red Cross Society, Wrightson Road West, P.O. Box 357, *Port of Spain, Trinidad, West Indies*.
- TUNISIA — Tunisian Red Crescent, 19 rue d'Angleterre, *Tunis*.
- TURKEY — Turkish Red Crescent, Yenisehir, *Ankara*.
- UGANDA — Uganda Red Cross, Nabunya Road, P.O. Box 494, *Kampala*.
- UNITED KINGDOM — British Red Cross, 9 Grosvenor Crescent, *London, SW1X 7EJ*.
- UPPER VOLTA — Upper Volta Red Cross, P.O.B. 340, *Ouagadougou*.
- URUGUAY — Uruguayan Red Cross, Avenida 8 de Octubre 2990, *Montevideo*.
- U.S.A. — American National Red Cross, 17th and D Streets, N.W., *Washington, D.C. 20006*.
- U.S.S.R. — Alliance of Red Cross and Red Crescent Societies, Tcheremushki, I. Tcheremushkinskii proezd 5, *Moscow B-36*.
- VENEZUELA — Venezuelan Red Cross, Avenida Andrés Bello No. 4, Apart. 3185, *Caracas*.
- VIET NAM, DEMOCRATIC REPUBLIC OF — Red Cross of the Democratic Republic of Viet Nam, 68 rue Bà-Triệu, *Hanoi*.
- SOUTH VIET NAM — Red Cross of the Republic of South Viet Nam, Hồng-Thập-Tu street, 201, *Ho Chi Minh Ville*
- YUGOSLAVIA — Red Cross of Yugoslavia, Simina ulica broj 19, *Belgrade*.
- ZAIRE (Republic of) — Red Cross of the Republic of Zaire, 41 av. de la Justice, B.P. 1712, *Kinshasa*.
- ZAMBIA — Zambia Red Cross, P.O. Box R.W.1, 2837 Brentwood Drive, *Lusaka*.