RESPECT FOR HUMAN RIGHTS IN ARMED CONFLICTS

Comments by Governments on the reports of the Secretary-General

Note by the Secretary-General

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71-10464
I. INTRODUCTION

1. The present document is issued in pursuance of operative paragraph 3 of resolution 2677 (XXV), adopted by the General Assembly at its 1922nd plenary meeting on 9 December 1970.

2. In operative paragraph 3 of resolution 2677 (XXV), the Assembly requested the Secretary-General, inter alia, to invite early comments by Governments on his reports concerning respect for human rights in armed conflicts (A/7720 and A/8052), to present the comments received to the General Assembly at its twenty-sixth session, and to report at that session on the results of the conference of government experts convened by the International Committee of the Red Cross and on any other relevant developments. The Assembly decided to consider again the question of respect for human rights in armed conflicts, in all its aspects, at the twenty-sixth session.

3. In compliance with this resolution, the Secretary-General, on 31 December 1970, sent a note verbale to the Governments of States Members of the United Nations or members of specialized agencies, requesting them to comment on the reports mentioned above and to submit their observations thereon not later than 31 March 1971. As of 15 June 1971, twenty-one replies had been received. These replies are reproduced in section II.

4. The report of the Secretary-General on the results of the conference of government experts convened by the International Committee of the Red Cross and on any other relevant developments will be issued in due course as a separate document.
II. REPLIES RECEIVED FROM GOVERNMENTS

BARBADOS

/Original: English\n6 April 1971

The Government of Barbados accepts his views as set out in his reports concerning the need for revision of existing instruments, and for initiation of studies and enquiries in order to ensure greater protection of the rights of civilians and combatants, and the better application of existing humanitarian international conventions and rules to conflicts, taking into account contemporary thinking and conditions. The Government expresses the hope that the conference to be convened in Geneva from 24 May to 12 June 1971 will be successful in reaffirming and developing international humanitarian law applicable to armed conflicts.

BELGIUM

/Original: French\n30 March 1971

The Belgian Government is pleased to note the harmonious and fruitful co-operation which has grown up between the Secretary-General of the United Nations and the International Committee of the Red Cross in seeking ways to provide a more effective guarantee of the respect for human rights in armed conflicts.

The Belgian Government agrees with the Secretary-General that the four Conventions contain valuable provisions and need only to be adapted to the developments in the methods used in armed conflict since 1949. It also agrees that the conference of government experts to be held at Geneva in May and June 1971 should provide a good opportunity to strengthen the impact of the Geneva Conventions of 1949, to encourage their full application and to make their provisions better known.

The supplementary observations below are included with a view to the Geneva conference, referred to in General Assembly resolution 2677 (XXV), in which Belgian experts will be participating. They are made without prejudice to a more comprehensive approach which might be taken as a result of the projected conference.
1. **Respect for the rules of humanitarian law in conflicts not of an international character (common article 3 of the four Geneva Conventions)**

The Belgian Government notes that most armed conflicts since the end of the Second World War have been non-international in character.

Common article 3 of the four Geneva Conventions has made it possible to ensure a minimum standard of protection for the victims of armed conflicts and to guarantee respect for their fundamental rights.

However, experience has shown that the wording of this article is too restrictive:

(a) In the absence of a generally accepted definition of "non-international conflict" and of precise knowledge of the status of parties to such a conflict, common article 3 does not settle the problem of the treatment of prisoners of war or afford a means of distinguishing between the spheres of application of national penal law and international humanitarian law;

(b) Respect for the Red Cross emblem in non-international conflicts should be better guaranteed;

(c) The free passage of food-stuffs, clothing and medical and hospital stores to non-combatants should be guaranteed in a provision similar to the one contained in article 23 of the fourth Geneva Convention;

(d) ICRC's competence and right of initiative should be more clearly affirmed;

(e) In non-international, as in international, conflicts "the right of the parties to a conflict to adopt means of injuring the enemy is not unlimited";

The ICRC will submit some suggestions to the May conference with a view to supplementing the provisions of article 3 with an additional protocol.

2. **Protection of combatants**

(a) **In conflicts of an international character**

The Hague Regulations of 1907 contain a number of rules which are applicable to combatants who are not sick, wounded or prisoners of war.

Some of those rules should be redrafted since in some cases the wording employed in the 1907 text is obsolete.
The prohibition against making improper use of the white flag or Red Cross emblem (article 23 (f)) should be reaffirmed.

Similarly, in the light of experience new texts should be drawn up in which the means available to combatants to show their intention of surrendering would be indicated in concrete but unrestrictive language.

Article 23 (d) of the Hague Regulations should also be reformulated. The Belgian Government is not certain whether this prohibition can be replaced by a rule requiring States parties to a conflict to declare that they will protect the enemy placed hors de combat in accordance with the laws and customs of war. Humanitarian principles should be automatically applicable, irrespective of any explicit declaration to that effect.

(b) In conflicts not of an international character

Should irregular forces be granted minimum protection provided that they in turn assume certain minimum obligations?

In considering this problem, the obligation of every combatant to respect, as a minimum, the following principles must be borne in mind:

(1) parties to a conflict do not have an unlimited right to adopt means of injuring the enemy;
(2) launching attacks against civilian populations as such must be prohibited;
(3) a distinction must be made between persons taking part in the hostilities and members of the civilian population so that the latter are spared as much as possible.

3. Protection of civilians in armed conflicts

In armed conflicts the civilian population is far more exposed to the physical dangers of hostilities than was the case in earlier periods of history. Therefore the Belgian Government sees a need for reviewing the present rules with a view to adapting them to present-day conditions.

To that end, it suggests that the government experts meeting at Geneva should recommend:
(1) **The adoption of standard minimum rules** elaborating and amplifying the three principles set forth in General Assembly resolution 2444 (XXIII).

The experts might base these rules on the norms suggested by the Secretary-General in paragraph 42 of his report in document A/8052 and on rules drawn up by ICRC.

(2) **The establishment of criteria** for identifying civilians who would be eligible under the future convention to enjoy the protection of the minimum rules recommended for adoption.

Persons classified as civilians might be those referred to in paragraph 39 of the report of the Secretary-General (A/8052).

(3) **The adoption of specific, practical measures** to eliminate hazards to the civilian population as much as possible. Consideration should be given to the usefulness of drafting an appropriate international instrument for this purpose.

4. **International assistance in, and supervision of, the application of humanitarian rules relating to armed conflicts**

With regard to international supervision of the application of international rules already adopted, the Belgian Government notes the Secretary-General's acknowledgement that the system of protecting Powers has not given the anticipated results and that the activities of the International Committee of the Red Cross are subject to limitations.

That being so, ways of obliging parties to an armed conflict to observe the recognized rules should be sought and a system of international supervision established. However, the Belgian Government is of the view that the greatest caution should be exercised in introducing a system that would supplement the system under which ICRC acts.

As the Secretary-General states in paragraph 226 of the report in document A/7720, the role of ICRC should continue and be strengthened.

The Belgian Government agrees with the Secretary-General as to the usefulness of strengthening ICRC through additional contributions. However, no scheme of financing should in any way jeopardize the independence of the International Committee.
In conclusion, the Belgian Government believes that ICRC, as a pre-eminently humanitarian body, deserves the support of all those who are in a position to render assistance. In those cases where ICRC is unable to take action or encounters difficulties, the availability of assistance in the matter of supervision must nevertheless be assured. Efforts in that direction should be made in the spirit of paragraph 216 of the report in document A/7720.
BYELORUSSIAN SOVIET SOCIALIST REPUBLIC

1. As has already been pointed out in the note submitted by the Byelorussian SSR concerning human rights in armed conflicts (see document A/8052, annex III, pp. 118-119), the best and most effective way of protecting human rights would be completely to eliminate wars, and the possibility of their occurring, from the life of mankind.

2. The forces of imperialism are responsible for the outbreak in various parts of the world of grave international crises which are fraught with dangerous consequences and heighten international tension.

3. The sordid war which the United States is continuing to wage against the Viet-Namese people and other peoples of Indochina, Israel's aggression against the Arab States, the reactionary, racist policies of the Government of the Republic of South Africa and the Southern Rhodesian régime and the outrages being committed by the Portuguese colonialists in Angola, Mozambique and Guinea (Bissau) are all examples of flagrant violations of human rights and arouse legitimate anxiety in all people who are devoted to the cause of peace, humanism and social equality.

4. In these circumstances, the struggle to protect fundamental and inalienable human rights and to ensure full compliance by all States with the existing rules of international law relating to the obligations of States in armed conflicts assumes particular importance.

5. In the present circumstances, the question arises as to whether it would be advisable to formulate supplementary rules, but without revising, much less replacing, the existing agreements in the field of human rights.

Supporting the conclusion that the text of the existing agreements in the field of human rights should remain untouched, the Byelorussian SSR strongly favours strict compliance with these instruments by all States in all armed conflicts.

In this connexion, the United Nations should increase its efforts to secure accession to these instruments by all States, to strengthen their impact and to ensure their full application.

6. The Byelorussian SSR, for its part, regards itself as being a Party to, has acceded to or has ratified the Hague Conventions of 1899 and 1907, the
Geneva Protocol of 1925 and the Geneva Conventions of 1949, which are important international agreements relating to respect for human rights in armed conflicts.

7. The question of the protection of civilians should be approached on the basis of the existing instruments - the Hague Regulations of 1907 and Geneva Convention IV of 1949 - and of the three principles affirmed in resolution 2444 (XXIII): that the right of the parties to a conflict to adopt means of injuring the enemy is not unlimited, that it is prohibited to launch attacks against the civilian populations as such, and that distinction must be made at all times between persons taking part in the hostilities and members of the civilian population to the effect that the latter be spared as much as possible.

8. The question of the protection of civilians requires more careful study, with a clear distinction being made between the civilian population and combatants.

9. Consideration of the question of internal armed conflicts must proceed from the premise that insurgents taking part in such conflicts should enjoy protection on the basis of the Geneva Conventions of 1949.

10. Noting the successful results obtained in the matter of the prohibition and limitation of certain methods and means of warfare, the Byelorussian SSR considers it essential that the United Nations should increase its efforts in this direction, especially as regards prohibiting the use of weapons of mass destruction.

11. The Geneva Protocol of 17 June 1925 prohibits the use of asphyxiating, poisonous, tear- and other gases and of bacteriological methods of warfare. In addition, resolution 2603 A (XXIV) states that the Geneva Protocol embodies the generally recognized rules of international law prohibiting the use in international armed conflicts of all biological and chemical methods of warfare. Thus, all States are obliged to comply strictly with the Geneva Protocol; countries which violate its provisions must bear international responsibility.

12. The report rightly notes that, as a rule, national liberation movements take the form of guerrilla warfare characterized by secrecy and close contact with the civilian population which is in sympathy with such movements.

If guerrilla warfare has as its aim the elimination of colonial and foreign rule and exploitation and the attainment of genuine freedom and independence for a given country, it is an international conflict. Participants in guerrilla movements should therefore be given full protection in accordance with the Geneva Conventions of 1949.
13. Mass arrests, the taking of hostages, torture, execution without a trial or investigation and measures of mass repression against civilian populations giving support to guerrilla movements are completely inadmissible and a flagrant violation of existing rules of international law.

14. Consideration of the question of the protection of the rights of civilians and combatants in conflicts which arise from the struggles of peoples under colonial and foreign rule for liberation and self-determination must proceed from the premise that the struggle of peoples against colonial and foreign rule and exploitation is an international conflict. National liberation movements have the status of subjects of international law.

15. It is important to note that a number of decisions, in particular resolutions 2465 (XXIII) and 2734 (XXV), reaffirm the legitimacy of the struggle of oppressed peoples to exercise their right to self-determination and independence and contain an appeal to all States to assist oppressed peoples in their legitimate struggle for the speediest possible elimination of colonialism or any other form of colonial rule.

16. In addition, resolutions 2446, 2383, 2395 and 2396, approved at the twenty-third session of the United Nations General Assembly, and 2506, 2508 and 2547, adopted by the General Assembly at its twenty-fourth session, clearly indicate that fighters for freedom and independence should receive the same treatment as prisoners of war in accordance with international law and, in particular, in accordance with the Geneva Conventions of 12 August 1949 on the treatment of prisoners of war and the protection of civilians in time of war.

General comments

Attaching great importance to respect for fundamental human rights in armed conflicts, the Byelorussian SSR takes a generally favourable view of the report of the Secretary-General (documents A/7720 and A/8052) and deems it essential that the study of this important and urgent problem should continue.

The report has a number of shortcomings, among which are the following:
- It makes no distinction between the guilty parties and the victims in armed conflicts;
- It does not give enough attention to the question of the protection of the civilian population in all armed conflicts;
- Having regard to the relevant decisions of the United Nations General Assembly, existing international agreements on the protection of human rights should be extended to cover participants in national liberation movements and the civilian population in countries fighting against colonialism and foreign rule and exploitation and for liberation and self-determination, and all States should be required to provide such protection. This idea should have been set forth explicitly in the report;

- There is no need to amend, much less revoke, existing international agreements relating to human rights. Consideration should be given only to the possibility of formulating supplementary rules;

- The question of establishing new bodies should be approached with caution and given careful study. It is important that existing bodies dealing with questions of human rights should be made more effective and more active and that there should be increased co-operation between them.

Resolutely condemning violations of human rights in armed conflicts, the Byelorussian SSR calls upon all States which are not Parties to the international humanitarian Conventions to accede to them and to the other international agreements which limit the means, ways and methods of waging war, requests all States to comply with them strictly in all armed conflicts and urges the further development of international legal standards designed to ensure protection of fundamental freedoms and human rights.

The Byelorussian SSR considers that in cases where State authorities or private individuals of a given State violate the existing international instruments providing for the protection of human rights in armed conflicts they must bear international responsibility and the provisions of the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity should be applied to them.
This preliminary report of the Secretary-General, in the view of the Canadian Government, provides a most useful survey of the general background to the question of respect for human rights in armed conflicts in one concise document. In particular, section II, on the history of international instruments of a humanitarian character relating to armed conflict, compiles the most directly relevant Conventions, protocols and other legal material, knowledge of which is essential for the purpose of undertaking a detailed study of the over-all subject matter.

The four Geneva Red Cross Conventions of 1949 represent the high-water mark of efforts on the part of the world community to provide internationally agreed minimum standards of conduct with respect to the treatment of incapacitated members of armed forces and civilians in conflict situations. Since that time, there have been increasingly vigorous attempts to promote accession to, respect for, and dissemination of, the Conventions. Recently, a growing consensus has emerged on the international plane favouring augmenting and supplementing these important treaties. The International Conference on Human Rights, held in Tehran, in 1968, and the International Red Cross Conference at Istanbul, of 1969, laid the groundwork for these efforts; the International Committee of the Red Cross, having consulted the United Nations Secretariat and in close collaboration with a number of Governments, is now engaged in preparing for the elaboration of one or more new international legal instruments to achieve this objective. In this connexion, a conference of governmental experts on humanitarian law, at which the Canadian Government will be represented, has been convened to take place at Geneva from 24 May to 12 June.

A fundamental aspect of the Geneva Conventions, and one which to some extent marks their uniqueness in the field of humanitarian law, relates to their inclusion of limited provisions with respect to "non-international conflicts". The Istanbul Conference was especially interested in the protection of victims of this
type of conflict. One resolution, introduced and co-sponsored by the Canadian Government delegation and adopted by an overwhelming majority, requested the ICRC to devote special attention as to how the common article 3 of the four Geneva Conventions could be made more specific or supplemented (resolution XVII). Given this background, paragraph 177 of the report under discussion is of particular interest to Canada. It may be that, rather than questioning whether one or more new international instruments dealing with internal conflicts should be elaborated, attention should be directed to the scope and content of prospective agreements - for the development of which there is widespread support.

It has also been noted that the preliminary report examines the prohibition and limitation of the use of certain methods and means of warfare. This is a subject of profound importance and no comprehensive study on respect for human rights in armed conflicts could fail to take this into account. Nevertheless, the Canadian Government believes that this context may not be the most appropriate for discussion of a total ban on the use of particular types of weapons, such as napalm and incapacitating agents. Examination of this matter might best be left for resolution by the international fora directly concerned with disarmament. However, the implication in the report that the distinction between combatants and non-combatants in the area of conflict must at all times be maintained, is fully supported.

In the "Final observations" section of document A/7720, it is stated that consultations would be conducted with the ICRC and other competent organizations and the assistance of qualified experts sought. The Canadian Government is of the view that this kind of close collaboration among the Secretary-General, the ICRC, international humanitarian organizations and qualified experts, will contribute substantially towards the elaboration of one or more new, or revised international legal instruments in the field of humanitarian law.

Document A/8052 of 18 September 1970

General Assembly resolution 2597 (XXIV) requesting the Secretary-General to continue the study which gave rise to the preliminary report, asked that special attention be given to the need for the protection of civilians and combatants in conflicts relating to self-determination and the better application of existing
international humanitarian rules to such conflicts. The report contained in document A/8052 has not only fulfilled the requirements of the resolution but constitutes a basic working paper which should be carefully examined by all Governments and agencies engaged in international efforts to develop humanitarian law.

The Canadian Government has noted with interest the view of the Secretary-General in paragraph 24 that there are instances in which the "autonomous protection" offered by United Nations human rights instruments is more effective and far-reaching than that derived from the Geneva Conventions. This would seem to provide a sound reason for ensuring that any proposed augmenting or supplementing of the Conventions is undertaken in the context of developing broad international legal norms and standards of conduct rather than carried out solely in relation to existing conventional provisions. The minimum rules to be applied to combatants could ignore the category of conflict, perhaps with the proviso that existing international law is not to be derogated from or its applicability limited. The elaboration of additional principles should be superimposed on, and not replace, humanitarian rules in force at the present time.

Section IV of the report on protection of civilians and the establishment of sanctuaries would seem to lend itself to this kind of general approach. The various valuable suggestions set out therein are deserving of close study. The Canadian Government believes, however, that international efforts to lay down agreed minimum standards of conduct applicable to all types of conflict should concentrate, initially, on the incorporation of such norms in one or more international legal instruments. The question of what the report refers to as "civilians refuges or sanctuaries" - beyond the limited hospital and neutralized zones mentioned in the Geneva Conventions - could be left to a later stage, when agreement has been reached on the scope and applicability of these norms. Detailed consideration of sanctuaries (which in any case depends on satisfactory resolution of the central issues concerning the treatment which should be accorded to civilians) would likely impede progress on agreement on the standards of conduct if undertaken during the initial examination of humanitarian law development. In this connexion, the question of control and verification would require special comprehensive examination since the entire concept of sanctuaries would seem to be particularly susceptible to abuse and misapplication.
The inclusion in a General Assembly resolution of the international principles to be applied in conflict situations, as projected in paragraph 44, is of course a possible method by which the world community could elaborate further development of humanitarian law. However, the Canadian Government is of the view, as indicated above, that the drafting of one or more protocols or other instruments directly linked to the Geneva Conventions, which would bind all parties in a treaty relationship, would be a more effective manner in which to proceed.

The study of internal armed conflicts contained in section 8 is of particular importance since much of the impetus responsible for current efforts to further develop humanitarian law has resulted from the increasing frequency of this type of strife. This issue would appear to be one which is ripe for extensive and careful analysis at the forthcoming ICRC Geneva meeting of governmental experts. It is clear that the ideas set out in document A/8052 should be taken fully into account and special attention paid to the means of implementing any substantive rules concerning armed conflicts that may be arrived at.

Section X discusses protection of civilians and combatants in conflicts arising from struggles for liberation and self-determination. The general question of anti-colonial armed movements has been of direct concern to the international community during the last quarter century. Numerous United Nations organs, committees and agencies have given this matter detailed examination and, most recently, the Declaration on Principles of International Law and Friendly Relations and Co-operation Among States adopted in 1970 sets out basic considerations thereon. As indicated above, the Canadian Government believes that in seeking to formulate agreed norms to be applied to the protection of persons involved - voluntarily or otherwise - in conflict situations, it may be possible to leave aside the motives, purposes, or objectives of the particular conflict in question and the need to categorize it as a struggle for self-determination. If, within the context of developing humanitarian law, efforts are made to seek universal recognition that a standard was to obtain in non-international conflicts whatever the reason for the strife, a potentially difficult problem of determination could be avoided. It is evident that classes of conflict are
subject to varying interpretations both as between the protagonists and in the view of outsiders. Often it is not until the conflict has been concluded and a victor has emerged that this question is resolved. That is not to say however that the motive, purposes and objectives of the parties to the conflict as well as many other criteria need not be examined to determine whether the conflict is one of an international character to which all of the laws of armed conflict are applicable, or a non-international armed conflict to which some of the laws of armed conflict (in addition to article III of the 1949 Geneva Conventions) should be made applicable. In other words, the question as to which laws of armed conflict are to be applied in a particular case is to be answered by determining whether the conflict is "international" or "non-international" and not simply by reference to whether the conflict is a struggle for self-determination.

Supervision and enforcement of humanitarian law has always been a matter of fundamental importance but immense difficulty. In many respects this question is intimately related to the machinery for determining that armed conflict in fact exists and that international humanitarian legal obligations have thus come into play. While accepting that a great deal of study is required with respect to this issue, the Canadian Government is not convinced that this is a subject to be discussed at the primary stage of supplementing or augmenting existing humanitarian rules. It may be that once international agreement on the norms to be applied to conflict situations has been reached, the need for, and possible character of, a supervisory or regulatory body charged with securing their enforcement could be more easily discussed.

Section III - Conclusion

The Government of Canada wishes to express its appreciation to the United Nations Secretary-General for the admirable way in which the work on respect for human rights in armed conflicts has been carried out, pursuant to the relevant General Assembly resolutions. The expertise demonstrated and the documentation prepared in this important field will be of immense value in pursuing the urgent efforts to develop international humanitarian law as a vital aspect of preserving and promoting the basic human rights of all peoples everywhere.

/...
CUBA

5 April 1971

The Revolutionary Government of Cuba takes a genuine interest in General Assembly resolution 2444 (XXIII) of 19 December 1968, which invites the Secretary-General "to study steps which could be taken to secure the better application of existing humanitarian international conventions and rules in all armed conflicts;" etc. It has noted the Secretary-General's report of 20 November 1969 (A/7720) submitted to the General Assembly at its twenty-fourth session, and has studied the report in document A/8052 submitted to the twenty-fifth session of the General Assembly by the Secretary-General in pursuance of General Assembly resolution 2597 (XXIV), by which he was requested to continue the study initiated, giving special attention to the "need for protection of the rights of civilians and combatants in conflicts which arise from the struggles of peoples under colonial and foreign rule for liberation and self-determination".

The Republic of Cuba is a party to the Geneva Protocol of 17 June 1925 and to the four Geneva Conventions of 12 August 1949, i.e. the Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, the Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea, the Convention relative to the Treatment of Prisoners of War and the Convention relative to the Protection of Civilian Persons in Time of War.

The Revolutionary Government of Cuba supports General Assembly resolution 2603 A (XXIV) of 16 December 1969, which declares certain chemical and biological agents that can affect not only man but also animals and plants to be among the means of warfare prohibited by the Geneva Protocol of 1925.

Nevertheless, the Revolutionary Government of Cuba is of the view that if the objectives of the aforementioned General Assembly resolutions are to be met, more is needed than ratification of or accession to the Geneva Protocol of 1925 by all or almost all the countries of the world and the inclusion of all chemical and biological agents which can affect man, animals and plants among the methods of warfare prohibited under that Protocol. Additional measures, such as the following, must be taken to supplement the Protocol:

/...
(a) It must be clearly affirmed that chemical and biological agents, including tear-gas and other irritants, are to be considered as toxic to man, animals and plants. The Government of the United States has claimed and continues to claim that the poison gases it is employing in its war of aggression against Viet-Nam are harmless to man because they cause only temporary irritation of the eyes and respiratory tract. The military use of these so-called "harmless gases" must be prohibited. The United States Army is intentionally using them in very heavy doses and in closed or poorly ventilated areas. It is pumping them into air-raid shelters where groups of civilians have taken refuge. Its intention in so doing is genocide.

(b) The use of herbicides and defoliants on military or strategic targets must be unconditionally prohibited as a form of the crime of "biocide". Their manufacture in solutions or concentrations which are stronger than those used for agricultural purposes must be prohibited. The Government of the United States maintains that the herbicides and defoliants which it systematically employs in its war of aggression in Viet-Nam are the same as those which are sold on the public market, but it is concealing the fact that in Viet-Nam they are used in concentrations twice as heavy as for agricultural purposes and are sprayed over a given area as often as 100 times a day, destroying every vestige of life and producing extreme toxic effects in human beings, such as teratogenic effects in expectant mothers. There is no doubt that the "herbicides" utilized by United States personnel in Viet-Nam, Laos and Cambodia have caused severe damage not only to plants, animals and the ecology but also to human beings.

(c) The proper role and participation of scientists of all countries in the investigation, fabrication and perfection of chemical and biological weapons should be defined, and scientists or technicians who in any way participate or co-operate in the fabrication of arms or agents, including napalm, which are intended to destroy life in any form or at any level should be condemned.

(d) What has rightly been called "biocide" should be defined and included in the Code of Crimes Against Humanity under study at the United Nations with a description of the ways in which it is carried out. This international instrument should be retitled "Code of Crimes Against Humanity and Nature". A list should be drawn up of the perpetrators of the crime of biocide, which should include, in
addition to the names of the governmental and military leaders directly responsible, those of scientists and technologists who in any way participate or co-operate in the investigation, fabrication or perfection of biocidal weapons.

CYPRUS

[Original: English]
6 April 1971

The Government of the Republic of Cyprus has no comments to offer in connexion with reports A/7720 and A/8052 in respect for human rights in armed conflicts.
(1) The Czechoslovak Socialist Republic attaches eminent importance to the question of protection of human rights in armed conflicts. We fully share the conviction that the best guarantee of protection and implementation of human rights is peace and that main efforts must be therefore aimed at the elimination of armed conflicts. However, since in the present world the existence of such conflicts cannot yet be excluded, it is necessary on the part of the United Nations and on the part of Governments to exert every effort to achieve the best possible protection of human rights in any armed conflicts.

(2) The Czechoslovak Socialist Republic regards both reports by the Secretary-General on this issue (documents A/7720 of 20 November 1969 and A/8052 of 18 September 1970) as well as General Assembly resolution 2677 (XXV) of 26 December 1970 as useful documents which can constitute a fairly sound basis and starting point for further work in this field.

(3) The principal emphasis should in our view be placed on systematic observance of already existing international legal instruments, particularly the Geneva Convention of 1949, the Convention on Prevention and Punishment of the Crimes of Genocide, the Geneva Protocol of 1925, and the Hague Conventions from the years 1899-1907.

The Czechoslovak Socialist Republic is a Party to all these Conventions and their provisions are reflected in its internal legal system so that their consistent observance has been thus ensured and sanctioned.

(4) However, notwithstanding the existence of the above-mentioned international legal instruments, it would be desirable to adopt measures that would expand and promote the protection of human rights in armed conflicts. This need is necessitated particularly by the development which has occurred in the forms of warfare in armed conflicts within the last period of twenty-five years.

The Czechoslovak Socialist Republic is willing to have a full share in the respective work and to co-operate in this field with the United Nations and its bodies as well as with the International Committee of the Red Cross. This endeavour is motivated by the hope that the adoption of documents might be achieved which
would constitute not only a significant factor for the protection of human rights but also for the strengthening of international peace.

(5) While preparing the future work aimed at promoting and strengthening the protection of human rights in armed conflicts and, especially, the protection of civilian population, it has to be borne in mind that this question should be a subject of interest to the entire mankind and to all States. For that reason, it is necessary for all States of the world to take part, without any restrictions and without any discrimination, in the preparatory phase of the envisaged codification.

(6) The further development of international law in this sphere should be heading in particularly two directions:

(a) To strengthen and expand the protection of civilian population in the case of armed conflicts;

(b) To ensure the application of international humanitarian protection under both already existing instruments and those to be elaborated in the future to members of national liberation movements.

It has to be ensured that also in this field the progressive development of contemporary international law finds its reflections as a consequence of which a number of norms have been set forth concerning the right to self-determination, the elimination of racial discrimination, elimination of the remnants of colonialism and others. These norms entitle everybody who is implementing these rights to an all-round protection, including the sphere of international humanitarian law.

(7) One of the major issues is also the question of prohibition of weapons of mass destruction. When used these weapons completely eliminate any border line between the combating members of armed forces and the civilian population and are making thus their protection quite illusory. Any legal regulation of the protection of civilian population which would not take this question into consideration, would for these reasons be quite insufficient and, to a considerable degree, fictitious.

(8) In all deliberations on the protection of human rights in armed conflicts it must not be forgotten that the frequent violation of these rights, as well as the barbarous and systematic violation of many other human rights and basic freedoms - even those that are recognized in international legal documents, which we have witnessed so many times in the present era, is the result of aggression /...
and non-observance of the ban on the use of force on the part of imperialist powers; maximum efforts have therefore to be exerted to make an end, in the most decisive way, to these acts which constitute a negation and a cynical trampling down of the basic principles of international law and human rights.

DENMARK

Original: English
6 April 1971

1. The Danish Government wishes to commend the Secretary-General for the two reports he has presented in documents A/7720 and A/8052. By this work the Secretariat has helped, in a most useful manner, to bring out the strong and the weak points of the existing rules of international law designed to humanize the course of armed conflicts - a question involving a wide range of extremely difficult problems.

2. In its reply to the Secretary-General's note of 19 May 1969 - which was reproduced in the Secretary-General's first report, document A/7720, pp. 74-75 - the Danish Government expressed some scepticism with regard to a general revision of the existing conventions for the protection of human rights in armed conflicts. It was argued that the Geneva Conventions of 12 August 1949, taken in conjunction with the United Nations Human Rights Covenants of 16 December 1966, already cover or could at least be interpreted to cover most of the situations which have given rise to the proposed updating of the rules of international law relating to armed conflicts.

To a large extent the problem of reaffirming and developing humanitarian law applicable in armed conflicts therefore seems to be a question of the goodwill of the States concerned to observe their obligations under the existing conventions, and the existing rules should therefore, by and large, remain untouched.

It was felt, however, that in some specific fields, such as humanization of the course of internal armed conflicts, there seemed to be a need for supplementing and elaborating the existing rules of international law.

Furthermore it was held by the Danish Government that the question of the prohibition and limitation of the use of certain methods and means of warfare could most appropriately be considered within the framework of the United Nations Conference of the Committee on Disarmament (CCD).
The views previously advanced and still held by Denmark are corroborated by the conclusions of the Secretary-General's two reports, see specifically paragraphs 14, 18 and 29 of document A/8052 and paragraph 79, p. 112 ff. of Annex I.

In many respects the Danish Government concurs in the Secretary-General's approach to the study in document A/8055 and in the main conclusions of this report and the previous one contained in document A/7720. The following suggestions and comments with regard to the individual chapters of the Secretary-General's report A/8052 should only be considered as the Danish Government's preliminary views at this stage of the deliberations.

re Chapter III.


The Danish Government considers article 4, cfr. articles 6-8, 11, 15-16 and 18, of the United Nations Covenant of 16 December 1966 on Civil and Political Rights, to form a useful basis for updating and elaboration of the Geneva Conventions of 1949 in the sense that persons who are involved in an armed conflict - whether or not they take active part in the hostilities and whether the conflict must be regarded as international or internal - should always be secured such protection as derives from the United Nations Covenant. In conformity with the very idea of human rights, the Covenant applies without any restriction to all groups of persons, and certain of its central provisions apply in time of war as well as "... in time of public emergency which threatens the life of the nation ...". The Covenant would automatically supplement the Geneva Conventions once it enters into force (cfr. the so-called Martens clause relating to denunciation of the Geneva Conventions), but some years will probably elapse before it does. Moreover, to avoid any doubts as to what rights and what persons the respective Geneva Conventions cover, seen in conjunction with the provisions of the Covenant, it might be advisable either to incorporate the provisions of the Covenant in the Geneva Conventions where these provisions offer wider protection (see document A/8052, Annex I, paragraphs 32-68) or to add to the Geneva Conventions a provision to the effect that in no event shall the protection be below the minimum provided for in the United Nations Covenant on Civil and Political Rights.

/...
re Chapter IV.

PROTECTION OF CIVILIANS

The Danish Government favours the idea of establishing a set of standard minimum rules for better protection of civilians during the phase of an international armed conflict in which hostilities occur and military operations are carried out as suggested in paragraphs 42-44. It would seem preferable that such rules be elaborated in the form of a supplementary protocol to Convention IV. In this connexion it might be considered to clarify the status of civilian emergency forces.

A further elaboration of the provisions of Convention IV relating to safety zones would in the Danish view seem to raise a number of problems which call for very careful consideration. Some countries of limited geographical extent would, from a military point of view, have considerable difficulties in establishing safety zones in advance. It should also be taken into account that large-scale evacuation could in itself inflict great suffering on the persons involved, which must be weighed against the advantages of sanctuaries.

re Chapter V.

PROTECTION OF COMBATANTS IN INTERNATIONAL ARMED CONFLICTS

Preparation of a new international instrument to update and - where necessary - supplement the provisions of The Hague Convention IV and its Regulations would, in the Danish view, be a recommendable procedure and the one by which the problems could be presented in the most systematic way.

re Chapter VI.

PROTECTION OF PRISONERS

The Danish Government concurs in the Secretary-General's view that Convention III is generally adequate.

re Chapter VII.

PROHIBITION AND LIMITATION OF CERTAIN METHODS AND MEANS OF WARFARE

Solutions to these problems should be sought within the framework of the United Nations. The Conference of the Committee on Disarmament has dealt with
these questions for many years and has developed a special expertise in problems related to arms control.

Chapter VIII.

INTERNAL ARMED CONFLICTS

A separate protocol on internal armed conflicts to supplement Common article 3 would seem preferable to updating, through interpretations or amendments of this article.

Such a protocol should clearly indicate

(1) the types of internal conflict to which the rules apply. If conflicts other than armed conflicts should be covered by such rules, as suggested by some ICRC experts, the difficulty in achieving adoption of measures of implementation would probably increase with a wider application to internal conflicts other than those which are armed conflicts in the real sense of the word;

(2) the groups of persons to be afforded protection. It could be considered to establish a minimum protection to be accorded to all persons; and subsequently to examine whether additional protection should be accorded to special groups (sick and wounded, children, women, old people, guerrillas, and others);

(3) the rights and freedoms to be protected. In the formulation of these rules, the provisions of the existing article 3 should be seen in conjunction with the United Nations Covenant on Civil and Political Rights and the United Nations standard minimum rules for the treatment of prisoners. It should be endeavoured to formulate a provision by which persons taking active part in the conflict would not be sentenced to death merely for acts such as killing the adversary in open fight carried out in accordance with the laws and customs of war.

Moreover the protocol should

(4) provide for some control of compliance with its provisions. In this connexion it should be considered to provide legal access for the ICRC to render humanitarian aid and not only, as is the case at present, offer its assistance. Moreover it should be considered to lay down expressly that derogation from the provisions by one party does not entitle another party to do the same. In this connexion reference is made to the principle laid down in article 60, paragraph 5, of the Vienna Convention on the Law of Treaties;
(5) stipulate that recognition and application of the rules of the protocol should not imply any stand on the status which the parties to the conflict otherwise hold under international law.

re Chapter IX.

GUERRILLA WARFARE

The requirements to be met by guerillas to achieve protection under Geneva Conventions I, II and III must be considered unrealistic in the light of recent developments. It seems recommendable to seek a solution to this question along the lines indicated in paragraph 191.

re Chapter X.

PROTECTION OF CIVILIANS AND COMBATANTS IN CONFLICTS WHICH ARISE FROM THE STRUGGLES OF PEOPLES UNDER COLONIAL AND FOREIGN RULE FOR LIBERATION AND SELF-DETERMINATION

See the observations re Chapter VIII.

re Chapter XI.

INTERNATIONAL ASSISTANCE IN, AND SUPERVISION OF, THE APPLICATION OF HUMANITARIAN RULES RELATING TO ARMED CONFLICTS

Effective protection of human rights, in time of peace as well as during armed conflicts, necessitates some kind of international control. In the view of the Danish Government the questions raised in this chapter are therefore of central importance for achieving humanization of the course of armed conflicts. The system of protecting powers as provided for in the Geneva Conventions has for various reasons (see paragraph 213 of the report) not been applied since the conventions were adopted. It is a question whether a realistic solution can be found to compensate for this system which has failed to function satisfactorily. It seems reasonable, however, to underline the sound idea behind the system of protecting powers, namely that the primary aim must be to secure that the parties involved always comply with their obligations under the conventions - not to impose sanctions in the form of compensation or penalties for violation of these obligations.

Denmark takes a positive attitude to the views presented in paragraphs 246-50, in support of the establishment of a machinery - inside or outside the United Nations framework - as a substitute for protecting powers. It should be carefully /...
considered how such a machinery could best be organized to secure its independence and acceptability to the potential parties to an armed conflict.

re Chapter XII.

BETTER APPLICATION AND REAFFIRMATION OF HUMANITARIAN INTERNATIONAL CONVENTIONS AND RULES

Besides supporting the suggestions advanced in this chapter and in chapter IV of the Secretary-General's first report, the Danish Government should like to submit for further consideration the idea of establishing a reporting system by which the States commit themselves, at the request of the Secretary-General, to submit reports on the laws and regulations which they have adopted to ensure the application of the four Geneva Conventions and other relevant international instruments concerning humanitarian law in armed conflicts.
DOMINICAN REPUBLIC

31 March 1971

The Dominican Republic has always attached special importance to international conventions concerned with the protection of human rights and respect for fundamental humanitarian rules in armed conflicts.

It has duly signed and ratified the Hague Conventions of 1899 and 1907, the Geneva Protocol of 1925 and the four Geneva Conventions of 1949; the last-named instruments were ratified on 22 January 1958.

At the time of their adoption, these international conventions and agreements represented great advances in the field of human rights because they set useful norms for the humanization of armed conflicts and ensured greater protection for the innocent victims of such conflicts and for combatants in distress. However, today they are incomplete in certain areas which were not fully considered at the time of their adoption but which have subsequently proved to be of great importance.

The Government of the Dominican Republic views as useful any effort that might be made to review the existing provisions with a view to adapting them, where appropriate, to present conditions.

The conference of the International Committee of the Red Cross on this question to be held at Geneva from 24 May to 12 June 1971 will undoubtedly provide a good opportunity for performing this work and for reaffirming and developing international humanitarian law applicable to armed conflicts.

Some States, in their observations concerning this question, have referred to the need to apply new measures or strengthen existing ones with a view to providing a better guarantee against threats to the civilian population. The Government of the Dominican Republic holds that any effort made in this direction would be most meaningful and useful.

There can be no doubt that the most important objective of all is universal accession to the existing Conventions and stricter observance by Member States of the rules laid down in them.

As has been frequently said, the best course might be to appeal directly to all States which have not acceded to the Conventions to do so, and to provide /...
those States which have undertaken to apply the provisions of these Conventions with all the relevant information.

It might also be appropriate to consider the possibility of drawing up a single instrument containing a suitably up-dated version of the provisions of the various Conventions signed between 1899 and the present.
I.

The Government of the Federal Republic of Germany welcomes the initiative taken by the United Nations with a view to ensuring more effective protection of human rights in armed conflicts and is prepared to give every possible support to the projects and activities resulting from such initiative. The Federal Government regrets that neither the intensive efforts to preserve peace in the world nor the manifold activities designed to establish the prerequisites for a peaceful coexistence of States and nations have been able to prevent the occurrence of armed conflicts in the past and to avert the danger that such conflicts will arise in future. The Federal Government believes, therefore, that the development of minimum standards to be observed in armed conflicts - specifically in so far as such standards relate to the protection of human rights - continues to be a matter of paramount importance. Since the present instruments embodying such standards are partly inconsistent with the present-day pattern of armed conflicts or provide only insufficient guarantees for the protection of human rights, particular attention should be devoted by all Governments to the development of the international law of war with a view to rendering these standards more effective and assuring their enforcement. The Federal Government most emphatically subscribes to this initiative since the Federal Republic of Germany has acceded to all essential international instruments relating to the subject of armed conflicts.

II.

The reports entitled "Respect for human rights in armed conflicts", presented by the Secretary-General of the United Nations in documents A/7720 and A/8052, as well as resolutions 2444 (XXIII) of 19 December 1968, 2597 (XXIV) of 16 December 1969 and 2677 (XXV) of 9 December 1970 adopted by the General Assembly of the United Nations have therefore been received with particular interest by the Government of the Federal Republic of Germany. It feels that both the reports and the resolutions are extremely well suited to contribute to the clarification
and solution of open questions in the field of international law of war - firstly because they clearly elucidate many of the serious shortcomings and inadequacies of the present international rules covering armed conflicts and, secondly, because the reports and resolutions take advantage of preliminary work, especially that carried out so excellently by the International Committee of the Red Cross, and supplement and promote it by valuable findings and suggestions.

III.

In view of the large number of problems raised in the reports A/7720 and A/8052 on which comments have been invited in the note of the Secretary-General of the United Nations dated 31 December 1970, and owing to the shortage of time available for drafting the present paper, the Federal Government's comments set forth hereinafter can be but brief and must confine themselves to the most essential questions. Thus, the following comments on the aims and contents of those reports are presented herewith:

1. The Government of the Federal Republic of Germany shares the view that many rules of international law relating to armed conflicts need revising and amending. The text of the four Geneva Conventions of 12 August 1949 should - as was rightly pointed out in report A/7720 - be left unchanged as far as possible; however, their common article 3 may have to be amended or replaced by a separate instrument extending its scope for reasons which will be explained later in this paper. The same applies in the Federal Government's opinion to article 19 of the Convention of 14 May 1954 for the Protection of Cultural Property in the Event of Armed Conflict whereas the remaining provisions of that Convention should also be left unchanged to the greatest possible extent. On the other hand, it will in particular be necessary to review and possibly redraft in part the Regulations respecting the Laws and Customs of War on Land annexed to the Fourth Hague Convention of 18 October 1907 in order to ensure more effective protection of human rights in armed conflicts; the adoption of similar rules covering the subject of air warfare would appear desirable in this context.

2. The Federal Government further endorses the view expressed in the reports that a review of numerous individual questions of warfare is called for in order to ensure more effective protection of human rights in international armed conflicts.
This applies in particular to the use of certain methods and means of warfare. There can hardly be any doubt that numerous questions of the international law of war, such as the distinction between military and non-military objectives (No. 140 et seq. of report A/7720, No. 122 et seq. of report A/8052), the distinction between treachery and ruses of war, and the protection to be accorded to an enemy who surrenders must be made the object of improved and more comprehensive regulations and that international law of war provides at present only insufficient safeguards for the protection of civilians from the effects of military operations (cf. No. 35 of report A/8052).

3. (a) In this connexion particular importance attaches to the ban on weapons of mass destruction. In the Final Act of the Nine-Power Conference signed at London on 3 October 1954, the Federal Republic of Germany has undertaken not to manufacture on its territory nuclear, chemical or biological weapons. This undertaking has been embodied in Protocol No. III to the Treaty constituting the Western European Union signed at Paris on 23 October 1954 and is subject to international controls by the organization of that Treaty. It is with great interest that the Federal Government has taken note of those parts of the reports of the United Nations Secretary-General which deal with weapons of mass destruction. In this context it welcomes the result of the disarmament debate at the twenty-fifth session of the United Nations General Assembly and states its readiness to make a practical contribution towards an international prohibition of weapons of mass destruction. At the same time, the Federal Government wishes to point out that in seeking effective means of safeguarding peace a solution to the problem of conventional disarmament and arms limitation is also indispensable.

(b) The Government of the Federal Republic of Germany has noted with satisfaction resolution No. 2663 A (XXV) concerning the control of a comprehensive test ban through the international exchange of seismic data.

The Federal Republic of Germany informed the Secretary-General of the United Nations as early as April 1970 that it was prepared to participate in such an international exchange. The Federal Government hopes that it will thereby contribute to the achievement of a comprehensive ban on nuclear weapon tests.

(c) The Federal Government welcomes resolution No. 2662 (XXV) on the prohibition of biological and chemical weapons. It is of the opinion that the general principles embodied in that resolution constitute a useful basis for a generally acceptable solution.  

/...
The Federal Republic of Germany is without any reservations a party to the Protocol for the prohibition of the use in war of asphyxiating, poisonous and other gases and of bacteriological methods of warfare signed at Geneva on 17 June 1925. The Geneva Protocol of 1925 does not define chemical and bacteriological weapons. When the problem of "b" and "c" weapons is discussed, they should be specifically determined.

On the resumption of the Geneva Disarmament Conference in February 1970, the Government of the Federal Republic of Germany transmitted to the participants in the conference and the members of the United Nations a working paper on the question of "surveillance of a prohibition of biological and chemical weapons". As a suggestion for international controls, it set out in that document the experience it has gathered in connexion with the multinational control of the Federal Republic's renunciation of the manufacture of biological and chemical weapons.

(d) The Government of the Federal Republic of Germany is prepared to co-operate in the establishment of a report on napalm and other incendiary weapons as soon as the United Nations General Assembly resolves to instruct the Secretary-General to prepare such a report.

4. The Federal Government holds the opinion that the review and amendment of international treaties dealing with the laws of warfare should - in so far as international law has not set forth substantive rules of a more specific character (e.g. in the field of disarmament) - be given preference over appropriate resolutions, interpretations and appeals, since such treaties clearly have a more binding effect.

5. (a) The further improvement of the substantive rules concerning the protection of human rights in armed conflicts not of an international character as well as in other internal conflicts should, in view of the great number of internal conflicts and considering the shortcomings and inadequacies of the existing regulations, be treated as a matter of special importance. The Government of the Federal Republic of Germany shares the opinion expressed in the reports that a great number of problems await clarification and solution in this particular field of international law. The term "armed conflict not of an international character", for instance, is by no means clearly defined and there
are still no reliable criteria permitting a differentiation between such conflicts and "international armed conflicts", especially as far as the application of the international law of war is concerned. Moreover, the present rules governing armed conflicts not of an international character (in particular article 3 of the Geneva Conventions) are insufficient and provide no effective guarantee of their application. Finally, there could be doubt as to who may be held responsible under international law for the violation of human rights in the event of armed conflicts of a non-international character.

(b) It would therefore appear desirable if the scope of certain provisions embodied in the laws of warfare as well as in the Geneva Conventions were to be extended so as to ensure the protection of persons involved in conflicts not of an international character, regardless of whether or not these persons have taken an active part in the hostilities.

(c) Within the framework of humanitarian protection of the civilian population, efforts should be made to extend the scope of the protection accorded to civilian personnel giving medical aid and relief as well as to its medical supplies and its facilities for in- and outpatient treatment. The Government of the Federal Republic of Germany fully subscribes to the aims pursued by the International Committee of the Red Cross which has emphasized the necessity of ensuring more effective protection in this field.

(d) The Government of the Federal Republic of Germany believes that the respect for human rights in armed conflicts not of an international character could be considerably enhanced if the prerequisites under which such protection is accorded were to be clearly defined and if certain norms hitherto applied in international conflicts were to be recognized as valid in conflicts not of an international character. To this end, it would be necessary to establish a delimitation between such conflicts and purely internal conflicts which, owing to their nature and in view of the way force is used, do not readily lend themselves to the application of norms so far recognized in international conflicts.

6. (a) As regards guerilla warfare (No. 158 et seq. of report A/7720, No. 166 et seq. of report A/8052) which assumes growing importance in the modern forms of armed conflicts, one of the most essential tasks will be to determine in what circumstances such operations are to be considered part of international armed conflicts and of armed conflicts not of an international character,
respectively. The reports proceed quite rightly from the assumption that
guerilla operations may occur in all forms of armed conflicts.

(b) As far as guerilla operations in international conflicts are concerned,
the Government of the Federal Republic of Germany holds the opinion that the laws
of warfare - possibly by way of amendments to the Hague rules as suggested and
discussed earlier in this paper - should make it quite clear what persons are
to be considered as legitimate combatants, what requirements must be met, in what
circumstances permissible combat methods may be used by legitimate combatants
and what legal consequences are incurred if the status requirements are not
fulfilled or if the rules of warfare are disregarded. The further development
of the international rules relating to the definition of legitimate combatants,
to the ruses of war and to treachery will be of particular significance in this
context. In considering No. 89 of report A/8052, it should be borne in mind that
the concept of legitimate combatants cannot be identified with that of the prisoner
of war which is exclusively defined in article 4 of the Third Geneva Convention;
in fact, the protection to be extended to prisoners of war is by no means limited
to persons entitled to protection as legitimate combatants. The persons referred
to in subparagraphs (a) and (e) of No. 89 of the aforementioned report are
neither legitimate combatants nor is there a need to consider them as such in
view of their supporting functions or their affiliation to the armed forces.
They are, therefore, not covered by the concept of combatants but are to be
treated as prisoners of war on account of their affiliation to the armed forces
and because they are carrying out functions designed to support the war effort.

(c) The humanitarian protection of guerilla fighters in armed conflicts
not of an international character, which will frequently be characterized by
guerilla warfare, should be regulated along the lines of the suggestions set
forth above. This problem will have to be given particular attention when a
redrafting of article 3 of the Geneva Conventions is discussed. However, an
extension of the scope of article 3 - as indicated in Nos. 189 and 190 of
report A/8052 - cannot be expected to guarantee the degree of protection accorded
to legitimate combatants in international conflicts since it would seem unlikely
that States afflicted by internal conflicts will waive their claims to punish
insurgents under the terms of national criminal law. On the other hand, a more
effective protection than that provided for under the present version of article 3 of the Geneva Conventions appears to be both desirable and feasible.

7. (a) Referring to the provisions for the protection of persons not taking part in combat, which should be rendered more effective for all forms of armed conflicts, the Government of the Federal Republic of Germany would welcome the successful implementation of the measures suggested in the reports. This applies also to the protection of objects not used as means of warfare and in particular to cultural property and to objects used for humanitarian purposes. The Federal Government believes that the improvement of provisions relating to refuges and sanctuaries, which could take advantage of the experience gained with the Convention for the Protection of Cultural Property, as well as the facilitation of relief actions for the civilian population and the establishment of international rules concerning "open cities" would make a substantial contribution towards the more effective protection of the persons and objects concerned, and is prepared to support such efforts wherever possible. A modification of the provisions of the Fourth Geneva Convention (with the sole exception of its article 3) and of the Convention for the Protection of Cultural Property is not required in this context since the objectives outlined above can be achieved by way of supplementary agreements.

(b) Special importance should also be attached to the question of refuges and sanctuaries as well as to that of relief actions for the civilian population since the civilian population would directly benefit from a more effective solution of these problems. It would therefore be appreciated if the pertinent rules hitherto in force were to be rendered more practicable by means of special agreements.

8. As regards the improvement of international rules relating to armed conflicts and in particular the verification of their application, the Government of the Federal Republic of Germany holds the view that humanitarian aims would best be served by strengthening the role attributed to international bodies and to States not involved in an armed conflict. This applies not only to the recourse to the services of protecting Powers and of the International Committee of the Red Cross but also to the participation of the United Nations in the endeavour to oversee and ensure the observance of the application of humanitarian rules in
international armed conflicts. The Federal Government believes, however, that it must be considered a matter of particular urgency to clarify and extend the rights of international organizations and of States in armed conflicts not of an international character since the present provisions of article 3 of the Geneva Conventions regarding the use of the services of impartial humanitarian organizations have either proved insufficient or were entirely disregarded in practice.

IV.

In the opinion of the Government of the Federal Republic of Germany particular attention and support should be given to the suggestion on No. 251 et seq. of report A/8052 which the International League for the Rights of Man addressed to the Secretary-General of the United Nations on 4 November 1970. Teaching aids for the instruction of military personnel in international law - which might be supplemented by those developed for use in civilian education programmes - are a most suitable means of imparting better knowledge of the pertinent views held in foreign countries and of identifying the points at issue. A broad knowledge of the views held in other countries is essential for joint preliminary studies designed to identify unresolved problems and to facilitate their clarification and settlement by a mutual exchange of views. The Government of the Federal Republic of Germany is prepared to make its own manuals, handbooks and teaching aids for military and civilian instruction programmes in international law available for the purposes of such an exchange and would appreciate it if a favourable response to this suggestion were received from a great number of countries. A "Report on the Application and Dissemination of the Geneva Conventions in the Federal Republic of Germany", which was prepared in 1958 and which describes in some detail the efforts undertaken in the Federal Republic of Germany in this specific field, is therefore attached to this paper.
FIJI

9 February 1971

The Fiji Government wishes to commend the Secretary-General for his excellent reports and adds that, as part of its review of treaties, it is at present examining the Red Cross Conventions with a view to depositing an instrument of succession. The Fiji Government therefore does not wish to make any comment on the reports at this stage.

HOLY SEE

6 April 1971

The Holy See has noted with the keenest interest the two reports of the Secretary-General of the United Nations contained in documents A/7720 and A/8052.

It is very glad to learn of the projected international conference to be held by the International Committee of the Red Cross at Geneva from 24 May to 12 June 1971.

The Holy See is of the view that the four Geneva Conventions of 1949, to which it formally acceded on 22 February 1951, do in fact need to be reaffirmed and supplemented by additional provisions.

IRAQ

20 April 1971

The Government of the Republic of Iraq welcomes the current initiatives for the reaffirmation and development of international humanitarian law applicable to armed conflicts. While the existing laws should be scrupulously observed, in the view of the Government of Iraq, developments of humanitarian International law should take the following important principles into full consideration:
1. Civilian areas should be regarded as prohibited targets.
2. The vital distinction between combatants and non-combatants should be clearly defined and fully observed. Moreover, humanitarian treatment should be accorded /...
to all combatants captured by the enemy including members of militias, volunteer corps, organized resistance movements, and guerilla forces and should be regarded as prisoners of war.

3. Humanitarian international conventions should as a rule aim at protecting the rights of civilians and combatants in conflicts which arise from the struggles of peoples under colonial and foreign rule for liberation, self-determination, and independence in accordance with the principles of the Charter of the United Nations.

4. It is necessary to widen the scope of legal protection accorded to civilians so as to include refugees. Force should not be employed in any manner against civilians in occupied territories to induce them to leave their homes. Collective punishments, and the so-called "neighbourhood punishment" should be strictly prohibited.

5. Civilian property rights in occupied territories should be respected. Destruction of civilian dwellings and looting of property should be strictly prohibited.

6. Relief operations to civilians must be planned and co-ordinated preferably under international aegis. Such operations will be greatly facilitated if relief organizations are rendered all necessary support by all parties to a conflict.

7. A specific provision for the protection of refugees, with a clear prohibition against attacks on their camps and dwellings. Such provisions should include appropriate international sanctions against contravening parties.

8. Places of worship should be immune from attack in armed conflicts, and religious rites should be respected.

9. The historic monuments, museums, scientific, artistic, educational and cultural institutions should be considered as immune from attacks and as such respected and protected by belligerents. Cultural property, as defined in article (1) of the Convention for the Protection of Cultural Property in the Event of Armed Conflict signed at The Hague on 14 May 1954, should be respected and protected.
The Israel Ministry for Foreign Affairs has given careful study to the two reports entitled "Respect for human rights in armed conflicts" (A/7720 and A/8052), submitted by the Secretary-General to the General Assembly. This examination is still under way. The subjects treated in these reports are closely related to the work to be undertaken at the Conference of governmental experts on the reaffirmation and development of international humanitarian law applicable in armed conflicts, convened by the International Committee of the Red Cross from 24 May to 12 June 1971. As the Secretary-General will be aware, the Government of Israel has been invited to send a delegation to that Conference.

The views and comments of the Government on this subject are in preparation but will not be ready for transmission by the date indicated in the Secretary-General's note, and will be made available in connexion with the above-mentioned Conference.
As a newly independent country, the Malagasy Republic is keenly interested in all proposals for action to ensure respect for human rights.

The Malagasy Government has therefore given the most careful attention to the Secretary-General's reports on respect for human rights in armed conflicts contained in documents A/7720 and A/8052. It was glad to note the thorough review made of international instruments containing humanitarian rules applicable in armed conflicts and is concerned that, in view of the emergence of new problems which are deeply disturbing to peoples struggling for their freedom, independence and self-determination, there are not at present adequate provisions in this area. It also notes the limited application of the existing provisions and the fact that those provisions are being violated.

In order to compensate for the inadequacy of the present international instruments dealing with respect for human rights in armed conflicts and to ensure their strict application, Madagascar is giving careful attention to the work of the Third Committee, in which its representative played an active role by co-sponsoring draft resolutions A/C.3/L.1797/Rev.3 and A/C.3/L.1808/Rev.2, which fully reflect the position held by the Malagasy Republic.

Madagascar feels that the five draft resolutions recommended by the Third Committee (A/8178) give due weight to the urgent need for appropriate action to strengthen respect for human rights in armed conflicts. Draft resolution III calls for the effective application of the Geneva Convention of 12 August 1949 on the treatment of prisoners of war; draft resolution IV reaffirms the fundamental principles relating to the protection of civilians in armed conflicts, and draft resolution V recommends the necessary steps for concluding agreements aimed at a clearer proclamation of humanitarian rules, the adoption of new measures and the effective application of existing provisions. The Government of Madagascar believes that draft resolution I, which concerns the protection of journalists engaged on dangerous missions in areas of armed conflict, and draft resolution II, which deals with the protection of civilians...
and affirms that the provisions relating to prisoners of war should apply to persons struggling for their liberation and self-determination, both advocate new measures which are urgently needed in view of the present grave circumstances in which human rights are deliberately being violated at many places around the world in war situations of varying extent.

The Government of Madagascar therefore reaﬃrms its full support of the drafts mentioned above and declares itself ready to contribute as much as possible to the formulation of agreements ensuring greater respect for human rights in armed conﬂicts. It will certainly subscribe to those agreements at the appropriate time.

NAURU

Original: English
31 March 1971

The Acting Secretary for External Affairs has the honour to conﬁrm to the Secretary-General that the subject matter of the Secretary-General's note has been recorded in the records of the Republic and has the honour to advise that it is not the wish of the Republic to make comment on same.
The problem of assuring a minimum of protection to the victims of armed conflicts has traditionally been a subject of interest and concern both to the Norwegian authorities and to the Norwegian public. The important studies which have been prepared by the Secretary-General in connexion with the deliberations in the General Assembly and in other United Nations bodies of the item entitled "Respect for human rights in armed conflicts" have therefore been noted with the greatest satisfaction. The Secretariat is to be commended for the comprehensiveness and for the clarity of the material which has been presented in an important contribution to the further development of international humanitarian law.

The Secretary-General's two reports have been studied with close interest by Norwegian authorities. In the main, opinions and conclusions presented in the reports have been found to coincide with Norwegian views on the subject. Without attempting to comment in detail on the Secretary-General's reports, the Norwegian Government would like especially to emphasize certain general considerations:

Basic human rights and fundamental freedoms, as laid down in the relevant United Nations instruments and as provided by general international law, remain fully applicable in situations of armed conflict. It is assumed that this general consideration would encompass also the two International Covenants on human rights; the derogation clause in the International Covenant on Civil and Political Rights would specifically appear to establish the principle of continued applicability of the said covenant, which, although not specifically drafted with a view to covering situations of armed conflict, would nevertheless provide important protection in such situations. It is noted, therefore, that it is important that as many States as possible should ratify the two International Covenants.

The question of confirming this state of law - that basic human rights continue to apply in armed conflicts - through an international instrument would appear to merit separate consideration. In particular, it might prove useful to establish unequivocally that the fundamental provisions of the Hague Regulations and the basic human rights contained in article 3 of the Geneva Conventions already have become customary international law.
The more detailed and administrative provisions of the Geneva Conventions may not have the same character of general, customary law, and it thus remains important to seek a wider acceptance of these Conventions.

New aspects of warfare and developments in military technology have created new needs for legal regulation. Aerial warfare and guerilla warfare are indicative of some of these areas. In recognition of this development, the rules governing the actual conduct of military operations require further elaboration. This expansion and development of international humanitarian law, by taking into account new realities, would appear to be most suitably carried out through the establishment of additional protocols to existing international instruments, or by the adoption of new conventions. In particular, it is felt that no attempt should be made to amend the existing Geneva Conventions.

A most important objective in developing new regulations would be to ensure the application of international humanitarian law in all types of armed conflicts, whether they are internal or international, and regardless of the political status of the combatant parties. Efforts should be made to ensure the automatic application of the Hague Regulations and the Geneva Conventions in internal conflicts, even if the establishment of objective criteria for the determination of an armed conflict, as opposed to disturbances, such as brigandage, which do not amount to "armed conflicts", would pose difficulties.

It may be open to question whether the supervision of compliance with the laws of war by the belligerent powers alone is entirely satisfactory. As an alternative, the establishment of a permanent, international body for the supervision of international humanitarian law in armed conflicts would appear to merit serious consideration. Such an international organ would be likely to have a stronger position, morally and practically, than ad hoc commissions, and should be ready to assume its functions at the earliest possible stage after the outbreak of a conflict. The mere existence of such an international body might also have a deterrent effect on the attitudes and procedures of belligerents.

A study of national legislation concerning war crimes might furthermore be a useful step. The question might also be raised whether an international convention would contribute to improved national legislation in this field.
The widest possible dissemination of knowledge about the laws of war is desirable, and existing methods of publicity might be improved. One way of achieving this might be to provide for States to report on their efforts to spread information on international humanitarian law. The elaboration of standard war manuals appears particularly important. This is a task which might suitably be undertaken by an international body.

The need to protect innocent civilian populations from the ravages of war presents two equally important areas of concern. Firstly, the further development of the rules of war must encompass provisions for the protection of civilian populations from the actual conduct of military operations. Secondly, the international community must take positive steps to prevent needless suffering as a secondary consequence of armed conflict, such as through famine and epidemic diseases. The Secretary-General's two reports provide illuminating insights into both these aspects. The definition of the very term "civilian populations", in a manner which gives a detailed and precise determination, without excluding any group which should be protected, may prove to be especially difficult.

The Norwegian Government has for some time given particular attention to the question of protecting civilian populations in armed conflicts. It has been found that in certain respects, the needs and requirements of civilian populations in conflict situations and in emergencies caused by natural disasters are not entirely dissimilar. At the 21st International Conference of the Red Cross, a Declaration of Principles for international humanitarian relief was adopted, drawing up a framework within which humanitarian assistance offered by the international community might most effectively be administered to populations in areas that were affected by disasters. The Norwegian Government was gratified to note that the General Assembly in its resolution 2675 (XXV) stated that the Declaration of Principles for international humanitarian relief should apply equally in situations of armed conflicts. Moreover, that resolution reflects the salient points of the Secretary-General's study of international humanitarian law in affirming certain basic principles for the protection of civilian populations in armed conflicts.

The Norwegian Government will, in its continued study of the international law of armed conflict, give special attention to the question of the position of
civilian populations, and offers its fullest co-operation with a view to achieving progress in the field of international humanitarian law, within the United Nations and in other bodies, notably at the forthcoming diplomatic conference in Geneva, convoked by the International Committee of the Red Cross.
1. The Government of the Polish People's Republic has authorized competent organs to study carefully the Secretary-General's note of 31 December 1970, resolution 2677 (XXV) of the General Assembly and both reports by the Secretary-General on respect for human rights in armed conflicts (A/7720 and A/8052) and as a result of the above has the honour to submit the following comments.

2. The Government of the Polish People's Republic fully supports all the efforts aimed, on the one hand at the assurance of the better application of existing humanitarian international conventions applicable in armed conflicts and on the other at the elaboration of additional legal instruments in this field in order to develop and strengthen international humanitarian law.

3. This task is being undertaken, inter alia, by the Secretary-General in accordance with resolution 2444 (XXIII) of 19 December 1968 and by the International Committee of the Red Cross on the basis of resolution XIII adopted at the twenty-first International Conference of the Red Cross, held at Istanbul in 1969.

   From the above follows the necessity of close co-operation between the Secretary-General and the International Committee of the Red Cross.

4. The Government of the Polish People's Republic is of the opinion that the United Nations should aim, first of all, at securing the better application of existing legal instruments and at searching for new fields where development of humanitarian law is possible.

   The practical elaboration of additional legal documents to existing conventions should take place primarily within the framework of the procedure established by the International Committee of the Red Cross. On the other hand the International Committee of the Red Cross should not overlap the activities of the Conference of the Committee on Disarmament in Geneva, which is, inter alia, dealing with the problems of prohibition of the weapons of mass destruction.

5. The Government of the Polish People's Republic expresses its readiness to continue collaboration with the Secretary-General and with the International Committee of the Red Cross in the field of development of the international humanitarian law.

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The Polish delegation voted for resolutions 2444 (XXIII) and 2677 (XXV). Polish experts participated in the bilateral consultations arranged at Geneva by the International Committee of the Red Cross in September 1970, and in the conference of the Red Cross experts held at The Hague in March 1971 and they will participate in the conference of government experts on the reaffirmation and development of international humanitarian law which will be held at Geneva in May-June 1971.

6. Many times Poland was the victim of barbaric wars waged on her territory with the violation of all military laws and customs. German aggression on Poland in 1939 and dreadful hitlerite occupation which lasted up to 1945 was the culmination point of that horrible experience.

It is therefore understandable that Poland has always been in the first line of the countries fighting for peace and for respect to the international law related to armed conflicts.

7. Poland is, inter alia, party to the following international conventions concerning human rights in armed conflicts:
   - the Fourth Hague Convention of 1907 concerning the Laws and Customs of War on Land,
   - Geneva Protocol of 1925 for the Prohibition of the Use in War of Asphyxiating, Poisonous or other Gases and of Bacteriological Methods of Warfare,
   - Convention of 1948 on the Prevention and Punishment of the Crime of Genocide,
   - Four Geneva Conventions of 1949 for the Protection of Victims of War,
   - The Hague Convention of 1954 for the Protection of Cultural Property in the Event of Armed Conflict,

9. Careful analysis of the Secretary-General's reports (A/7720 and A/8052) and of relevant documentation elaborated by the International Committee of the Red Cross leads to the opinion that future development of international humanitarian law applicable in armed conflicts will take place in the form of elaboration of additional protocols to the Geneva Conventions of 1949.

10. The Government of the Polish People's Republic is of the opinion that new legal instruments in this field should deal, first of all, with the following questions:

- better protection of civilian population,
- better protection of combatants fighting for self-determination of peoples, for liberation from colonial, racist and foreign domination,
- better protection of wounded and sick, of medical and sanitary personnel and of the Red Cross emblem,
- better protection of victims of armed conflicts, the character of which is not strictly international under the existing conventions.

11. The work for development of international humanitarian law cannot proceed in separation from the activities aimed at maintenance of peace and of securing application of existing conventions as well as of opposing attempts for their revision.

The most effective way for safeguarding mankind from unavoidable negative results of wars would be universal observance of the prohibition of the threat or use of force as provided for in the United Nations Charter.

12. The Government of the Polish People's Republic states with regret, that the principles of the United Nations Charter and of other international legal instruments are being constantly violated by some imperialist Powers, which wage aggressive wars in many parts of the world, continue the illegal occupation of territories seized as a result of aggression and deny dependent peoples the right to self-determination and liberation from colonial domination.

13. In this connexion the Government of the Polish People's Republic wishes particularly to underline the importance of resolution 2674 (XXV) which, inter alia, solemnly reaffirms that in order to effectively guarantee human rights, all States should devote their efforts to averting the unleashing of aggressive wars and armed conflicts that violate the United Nations Charter and the provisions of the Declaration on Principles of International Law...
Concerning Friendly Relations and Co-operation Among States, as well as of resolution 2677 (XXV), which, inter alia, calls upon all parties to any armed conflict to observe the rules laid down in the Hague Convention of 1899 and 1907, the Geneva Protocol of 1925, the Geneva Conventions of 1949, and other humanitarian rules applicable in armed conflicts.

SWEDEN

[Original: English]
10 May 1971

The two reports contain a very competent, comprehensive and constructive discussion of the problems how to achieve a better application of existing humanitarian rules and how to form new rules or revise old ones in view of new means and methods of warfare. The Swedish Government expresses its appreciation to the Secretary-General for having laid a good basis for the further work. In the debate in the Third Committee of the General Assembly on the item Human Rights in Armed Conflicts a Swedish statement, delivered on 10 November 1970, dealt extensively with the problems discussed in the report (A/C.3/SR.1784). The following comments are offered in addition to the Swedish views thus expressed in the General Assembly. They do not pretend to be a systematic treatment of the extensive reports but aim rather at discussing some principal points. It is convenient first to deal with what can be done to achieve a better respect for the rules which already exist and thereafter to consider what modifications and innovations may be needed in the present complex of rules in view of new methods and means of warfare.

Steps to secure better application of existing rules

Many constructive suggestions are advanced in this regard in chapter IV of the 1969 report and chapter XII of the 1970 report. It would appear to be an urgent task to improve the dissemination of existing rules to those who have to apply them and to ensure that the standards which have been internationally adopted are uniformly incorporated in national legislation and instructions. Further, that effective penal provisions are adopted everywhere to ensure
respect for existing rules. Lastly, that various forms of international supervision be introduced to induce all States to live up to the accepted standards. The following measures are specifically submitted for consideration.

(a) **Uniformity of war manuals and penal provisions**

Since the legal obligations of States under customary law and conventional law are in large measure the same under the various international rules relating to armed conflict, it would be natural and desirable to make an effort to harmonize the contents of national war manuals and penal codes. A first step in that direction could be a request to States to report to the Secretary-General on the contents of their domestic rules in this sphere.

(b) **Effective instruction in the law relating to armed conflicts**

The usefulness of any development, reaffirmation and clarification of humanitarian rules relating to armed conflicts and incorporation of these rules in the domestic sphere of States, depends upon effective dissemination and instruction as well as upon penal sanctions against violations. It is not enough to spread the texts of the Hague and Geneva Conventions to officers and soldiers. The relevant rules have to be impressed upon those who have to apply them in practice, especially officers and soldiers. Recent experience seems to indicate that there is a great need for improvement in instruction. The United Nations and perhaps Red Cross organizations could organize seminars on methods of teaching and disseminating rules relating to armed conflicts.

(c) **War crimes and war crimes tribunals**

A code of war crimes is a natural concomitant of agreed humanitarian rules relating to armed conflict. Violations of international rules should be considered in the same manner regardless of which country takes jurisdiction. It would no doubt be desirable to establish an international criminal court to ensure equal treatment of war crimes. If agreement on such measure is unattainable, it would nevertheless seem desirable to continue work within the United Nations to establish an agreed code of war crimes and to obtain some form of international presence at all proceedings which are instituted by parties to armed conflicts against any person for war crimes, whether the proceedings be against their own nationals or enemy nationals.

/.../
(d) International supervisory machinery

It is believed that all parties to armed conflicts would stand to gain from a more scrupulous respect for the relevant humanitarian rules - provided that some of them are modernized. An important inducement to such respect could be achieved, if agreement were reached to confer upon an international organ certain functions of investigation and reporting. One such function - presence at proceedings concerning war crimes - has been mentioned above. It would also be important that actions which are in violation of the laws of war and which are claimed by one party to an armed conflict to have taken place without resulting in any proceedings being instituted, should be impartially investigated and reported upon so that the facts be established, in so far as this is possible. Parties to armed conflicts would thereby be enabled to clear themselves of unfounded accusations. At the same time they might be deterred from violating valid rules, for fear that their violation would be authoritatively established and made publicly known. It is believed that paragraphs 238-250 in the 1970 report by the Secretary-General forms an excellent basis of discussion on this point.

Guerilla warfare

There might be advantage in approaching first the question of legal protection of guerilla fighters in international armed conflicts. Solutions in this sphere might be susceptible of use in the corresponding, but even more difficult, question of the legal protection of guerilla fighters in internal conflicts.

Paragraphs 166-194 of the 1970 report by the Secretary-General is a thoughtful and cautious analysis of these matters and deserve to be further discussed between Governments.

The following considerations might also be weighed. The existing rules of warfare, including even the 1949 Geneva Conventions, are developed with primarily traditional types of armed contests in view, where regular army units stand against regular army units and where civilians are protected, provided they do not take part in the hostilities. These rules have left belligerents free to inflict severe penalties upon persons who commit belligerent acts in civilian dress.
The partisans and, sometimes, members of commando troops were, under this system, without legal protection of their lives, if they were caught. The same has continued to be true of most guerilla fighters, whose belligerent tactics frequently are based upon a surprise element attained by concealment of weapons and concealment of their belligerent intentions (civilian dress) until the very moment of attack.

It may be assumed that the latitude left to belligerents to inflict death penalty upon those persons is to be explained in part by the traditional prohibition of "treacherous methods" of warfare and in part by the belief that the ultimate penal sanction would effectively deter most persons from committing belligerent actions in civilian dress and with concealed weapons and, thereby, to create a measure of protection for the regular troops against such surprise attacks.

It would appear, however, that to a large extent the deterrent no longer functions. Various guerilla tactics are extensively, even systematically, used despite the danger of severe penalty against those who may be caught. The penalty would seem thus, to have failed to serve its intended function as a deterrent. It might, indeed, have led to consequences contrary to those desired, namely to destroy inhibitions against actions and methods which are contrary to the laws of war, for if a death or other severe penalty is risked anyway, there is nothing to lose in raising the level of brutality or departing from the rules of warfare.

Furthermore, where various kinds of repressive action are taken against civilians who assist guerillas by giving them food or otherwise, such actions, too, may simply result in brutal counteraction by the guerillas, who are in need of the support.

Militarily, the net result of the mutual increase in brutality might turn out to be the same as if no repression and counteraction had taken place, but the civilian population would have suffered grimly in the process.

It might be queried then whether in areas where there may be said to exist an armed conflict, the latitude of the belligerents to punish persons for undertaking belligerent actions in civilian dress and concealing their weapons could not be substantially restricted - without any great military disadvantage but with humanitarian advantage. It would appear, indeed, that in some large-scale conflicts, where the guerilla organizations have been sizeable and capable,
themselves, of taking prisoners, there has been some tendency to accord prisoner of war status to guerilla fighters captured in open fighting and to restrict penalties to cases of "terrorist" acts against civilians. It would seem desirable to explore whether it would be feasible to develop new rules which were based on the above considerations and practices. Care must be taken, however, that existing rules be modified in such a way that there is no serious weakening of the presumption that apparently unarmed civilians do not commit belligerent actions. Any such weakening would make the protection of the civilian population even more difficult than is now the case. This consideration would endorse the views expressed by the Secretary-General in paragraphs 191 b (iii) and (iv) to the effect that distinctive signs, recognizable at a distance, should be worn by guerillas at least in all circumstances where concealment would directly jeopardize the lives or liberty of civilians and that guerillas should carry arms openly in combat and operations directly preparatory to combat. It need hardly be added that respect for the laws of war would also be required of guerilla fighters.

There would be different ways of bringing about a better legal protection of guerilla fighters along the lines discussed above, such as a separate protocol or convention. Regardless of what method is used and the extent to which this is done, two other measures would seem highly practically important. The first would be an international presence in and supervision of all proceedings in which the belligerent actions of individual guerilla fighters are considered and their status as prisoner of war is accepted or denied. The second would be a reaffirmation of the existing absolute prohibition of torture. The secret structures of guerilla organizations have all too often led to the use of torture to extract information. A solemn condemnation of any use of torture would unfortunately seem to be called for. The best means of ensuring respect for this prohibition and of proving that accusations were unfounded would undoubtedly be the employment of continuing international supervision, from interrogation places to prisoners' camps.

**Internal conflicts**

The traditional position that the relations between a State and its own citizens are its exclusive concern is no longer rigidly maintained. With
increasing proximity between States and peoples it has become natural that the concern of the whole international community for people everywhere is manifested in international rules imposing standards also for the relations between the State and its own citizens. The many instruments on human rights bear witness to this. This important development has mainly had regard to peace-time situations.

Some inroads have been made also as regards the situations where there is internal conflict. Article 3 of the Geneva Conventions lays down some minimum rules applicable in armed conflicts of a non-international character and the Covenant on Civil and Political Rights contains certain rules which may not be derogated from under any circumstances, not even during internal conflict. These inroads, though valuable, are not enough. Many conflicts which have caused world-wide concern since the Second World War have been of an internal character. The international character of other serious conflicts has been subject to doubt. Various ways are sought to make the whole or part of the complex of rules relating to armed conflicts between States applicable also to these conflicts.

One approach is to assimilate to conflicts between States such conflicts as are "internationalized" by reason e.g. of foreign intervention or United Nations action. Another approach is found in the tendency to consider some of the rules traditionally applicable in conflicts between States binding also in other armed conflict by reason of a new custom to that effect. Apart from these ways of extending the scope of the rules relating to armed conflicts between States there exist, of course, the possibilities of achieving the same result by recognition of belligerency or agreement between the parties.

None of the methods tried appears adequate, however, and one is left with a need for innovation. In this regard one may perhaps start out from two assumptions. At the one end, that no State is going to grant prisoner of war status or apply other laws of war to a handful of shooting terrorists, however openly they may carry their weapons and however firmly fixed the distinctive signs they wear. At the other end, that the international community must insist that internal conflicts which have every appearance of war should be subjected to substantially the same rules as armed conflicts between States.
It would seem appropriate to urge as a guiding criterion that with increasing gravity and scope of a conflict more international law rules should be brought to bear. At the one end there would be some fundamental rules of the Covenant on Civil and Political Rights, applicable in all circumstances. It might be queried whether, next, the rules contained in article 3 of the Geneva Conventions could not also be made applicable in every conflict - whether armed or not - to the extent only that the rules of article 3 are relevant. This would seem natural, as in part they overlap with the rules of the Covenant.

Neither article 3 of the Geneva Conventions nor the non-derogable articles of the Covenant prohibit punishment of acts of belligerence in internal conflicts. Unless the death penalty can be eliminated there remains a crucial point to fix, where acts of a belligerent character, apart from war crimes, should no longer be punishable, but prisoner of war status be granted on conditions similar to those which apply in conflicts between States. In practice, this point is perceived when the conflict reaches a certain size. At that point the parties are likely not only to grant prisoner of war status to captured rebels but also to apply a number of other rules relating to warfare without any agreement to that effect. It would no doubt be desirable to try to crystallize this experience in a formal instrument, as contemplated by the Secretary-General in paragraph 164 of the 1970 report. A main problem in this regard would be what method or mechanism should be employed to determine and declare that an individual conflict is of such gravity and scope that the rules governing armed conflicts between States become fully or partially applicable. It seems inadequate to leave this matter to be solved by the conflicting parties alone, e.g. through agreement between them, or through unilateral recognition of belligerency. It seems equally inadequate to leave the question to the exclusive competence of the Security Council. If some international supervisory machinery were created, however, its opinion could be requested in all uncertain cases. This idea, mentioned in paragraph 145 of the Secretary-General's 1970 report is endorsed.

Two final points may be made in this chapter. One relates to the status of guerilla fighters in internal conflicts. It is believed that if a solution along the lines discussed above is accepted to this problem as regards international conflicts, it may also be applied in internal conflicts. The second point is to underline the fundamental importance of the rules requiring fair proceedings for
persons participating actively in internal conflicts and of the rules prohibiting torture and other degrading treatment. One may, indeed, query whether undertakings in this regard should not somehow be singled out and be subjected to measures of international supervision.

Protection of the civilian population

Part of the discussion above regarding guerilla warfare has also concerned the question of the protection of the civilian population, which is subjected to particular dangers in such conflicts. It was noted that repressive measures against civilians for assisting guerillas often simply lead to counter-measures and to a spiral of brutality without any real change in the military situation. Prohibitions are needed in both international and internal conflicts to prevent such developments. The suggestions advanced in paragraphs 148-150 of the 1970 report by the Secretary-General seem useful as far as they go.

It was emphasized in the discussion of guerilla fighters that an improved legal protection of such soldiers must be devised in such a manner as not to undermine the presumption which exists to the effect that apparently unarmed persons in civilian dress do not suddenly brandish weapons and attack. There is undoubtedly a dilemma on this point: a rule that is extremely generous to the guerillas would be likely to weaken the presumption of non-belligerency of the civilian and, thereby, put him in jeopardy.

It is understandable that the new forms of air warfare which have emerged during and after the Second World War have prompted ideas for creating sanctuaries where civilians would be protected, possibly on condition that the non-military character of the areas would be subject to inspection (paragraphs 45-87 of the 1970 report of the Secretary General). The Swedish Government nevertheless views these ideas with some scepticism, if they entail the movement of civilian population from their usual domiciles to special limited areas.

In the first place it might risk to remove the inhibitions which the belligerents are bound to observe in other areas and thus make "fire free zones" of all but the sanctuaries. The effort should rather be to halt the tendency to subject ever larger areas to bombardment without direction at specific military targets. In the second place, the concentration of civilians during war in
camp-like arrangements, where they might be cut off from all normal sources of subsistence and made wholly dependent upon the military machinery for their livelihood, is bound to create great risks. The regular structure of society might be broken up, perhaps with lasting effects. Sanitary conditions may increase the risks of epidemics. Adequate nourishment would be wholly dependent upon the military organization. Casualties might be great in case of military error or abuse.

The scepticism voiced above to the idea of sanctuaries would not apply to possible arrangements by which, through agreement and without any movement of population, areas (or cities) were made free from any hostile actions, possibly on the condition that their non-military use were made subject to impartial inspection.

New measures would seem to be called for to protect civilian populations during war against famine. Such measures should comprise guarantees that resources indispensable for the livelihood of the civilian population, e.g. fertile land, irrigation systems etc. are not subjected to intentional and perhaps systematic destruction. Further, that outside humanitarian assistance to alleviate the plight of the civilians be facilitated through new rules.

Prohibited weapons and methods of warfare

It is submitted that any discussion of improved protection of civilians in modern armed conflicts must take up the question of the elimination of certain weapons and methods of warfare.

Weapons of mass destruction have been subject to consideration in the context of the work on disarmament. It is not proposed therefore, here to discuss the existing prohibition of biological and chemical weapons, or the legal status of nuclear weapons. There seems to be no likelihood, however, that the Conference of the Committee on Disarmament would consider the problem of elimination of other modern weapons or methods of warfare on account of their being particularly injurious to the civilian populations. It would appear indispensable, therefore, to consider them in the present connexion.

It is a fact that is as well known as it is regrettable that no code concerning air warfare has ever been adopted. Guidance is available only in
general principles. The bombing carried out by both sides during the Second
World War has been subjected to criticism on the basis of the general principle
that weapons should be directed at military targets. There would appear to be
broad agreement that bombing for psychological purposes is not permitted. It
would also seem desirable to seek agreement that the existence of scattered
military targets cannot be adduced as a ground for bombing huge areas, or, to put
it differently, that there must be some proportion between the military gain
that is sought and the destruction that is "wrought."

Fire weapons

Resolution XXIII of the Human Rights Conference at Teheran in 1968 referred
to napalm bombing as eroding human rights and engendering counter-brutality.
The 1969 report of the Secretary-General (paragraph 200) advances the suggestion
that a special study might be made of the "legality or otherwise of the use of
napalm". This suggestion is endorsed. Napalm appears to be most effective as an
anti-personnel weapon and at the same time to constitute a particularly and
needlessly cruel weapon. It might, indeed, be desirable to broaden such a study
somewhat to encompass all weapons whose primary effect is fire. The legal
problems are likely to be the same in all these cases and the humanitarian concern
is the same, namely, that fire is an unnecessarily cruel means of intended injury.

Fragmentation weapons

A great many modern weapons rely for their effectiveness upon the
fragmentation that occurs when they explode. A complete prohibition of this
technique may be unattainable. The question must be raised, however, if agreement
could not be reached to eliminate weapons - primarily bombs - which are
constructed to yield fragments under a certain size. Such bombs are particularly
effective as anti-personnel weapons. At the same time they result in particularly
cruel injuries.
UKRAINIAN SOVIET SOCIALIST REPUBLIC

Original: Russian
15 June 1971

I

The Government of the Ukrainian SSR attaches great importance to the question of human rights in armed conflicts and feels that consideration of this question by the United Nations and its various organs is very timely.

Events in recent years show that human rights are being systematically and grossly violated during armed conflicts. Certain imperialist States still resort to aggressive war as an instrument of policy and are attempting to crush by force of arms the struggle of peoples for freedom and independence.

For a number of years the United States of America, showing contempt for world public opinion and the elementary principles and standards of international law, has been waging a barbaric war against the peoples of Indo-China, making wide use of such monstrous means of mass destruction as poisonous chemicals, which are prohibited by international law. The armed forces of the United States are grossly violating the laws of war and are making wider and wider use of prohibited methods of warfare. There is extensive evidence that United States military personnel are subjecting non-military targets to savage bombing and artillery fire, taking a heavy toll among the civilian population.

As a result of Israel's expansionist policy, thousands of persons, women and old people, in the Arab territories have been left without a roof over their heads or the means of existence. Disregarding the numerous decisions adopted by United Nations organs, Israel is continuing its mass violations of fundamental human rights and freedoms and is pursuing a policy of colonialist plunder and mass terror against the Arab inhabitants, who are innocent victims of aggression. These vile crimes result from the expansionist policies of the Israeli extremists, who are trying to crush the national liberation movement of the Arab peoples and hold on to the land they have seized.

The Portuguese colonialists are continuing to commit criminal, inhuman acts against the national liberation movements in Angola, Mozambique and Guinea (Bissau). The outrages committed by the leaders of the racist minority against the indigenous population of southern Africa have not ended.

/...
In these circumstances, the question of respect for human rights in armed conflicts assumes particular importance and calls for the adoption of appropriate measures to protect the victims of war and armed conflicts. In the opinion of the Government of the Ukrainian SSR, the best and most effective way to protect human rights in armed conflicts would be efforts by all States and Governments to prevent the unleashing of aggressive wars and armed conflicts and to ensure compliance in international relations with the principles of the development of peaceful relations among States, which envisage the prohibition of war, the renunciation of intervention in the internal affairs of other countries, respect for sovereignty, the right of each people to self-determination, the peaceful settlement of international disputes and the achievement of international peace.

Of great importance in the struggle for international peace and security are the decisions of the Nuremberg and Tokyo military tribunals, which gave expression to universally recognized principles and rules of international law relating to the prevention of aggressive wars and the punishment of persons who commit crimes against humanity. These decisions constitute a real and formidable warning to all who would again try to plunge mankind into war.

The question of respect for human rights in armed conflicts encompasses all aspects of international relations and is, in its significance, one of the most important of them, since it involves a fundamental human right - the right to life. Particularly valuable in this regard is the recommendations contained in General Assembly resolution 2444 (XXIII) of 19 December 1968, in which the Assembly calls upon Member States to become parties to the Hague Conventions of 1899 and 1907, the Geneva Protocol of 1925 and the Geneva Conventions of 1949. The accession of States to these international legal agreements and their constant and universal application by all States would be an important step towards preventing violations of the rights of civilians, prisoners and combatants. The United Nations should have an important role to play in this endeavour, since one of its most important tasks is to take action against gross and systematic violations of human rights, such as imperialist aggression, colonialism and neo-colonialism, acts of political terror against progressive persons and organizations, racism, apartheid and the policies and practices of nazism and neo-nazism.
II

The need to apply fundamental humanitarian principles in all armed conflicts has been repeatedly stressed in various United Nations bodies. These questions have been given further prominence in the relevant documents of the General Assembly, which have emphasized, in particular, the timeliness of the question of protecting human rights in armed conflicts and have pointed to the need to adopt urgent measures to prevent violations of fundamental human rights. Also of importance is the report of the Secretary-General on respect for human rights in armed conflicts, prepared in accordance with General Assembly resolutions 2444 (XXIII) and 2597 (XXIV) and submitted for consideration by the Governments of States Members of the United Nations.

The Government of the Ukrainian SSR has studied the report, "Respect for human rights in armed conflicts" (document A/7720 and A/8052). The report is of interest as an analysis of existing rules of international law which are intended to ensure respect for and protection of fundamental human rights in armed conflicts.

The Ukrainian SSR endorses the position of the Secretary-General on the question of human rights, which reaffirms the basic principle of the United Nations calling for condemnation of the policy of armed conflicts and action to prevent the development of military situations which might pose a threat to the civilian population and to peace (A/8052, paras. 12 and 36).

The report convincingly reaffirms the idea that efforts undertaken by all States within the United Nations are of great importance as a means of exerting an influence on those who disregard decisions of the General Assembly in the field of human rights and systematically commit gross violations of those rights. Such efforts provide a basis for the peaceful settlement of international disputes and the implementation of the fundamental principles of respect for human rights.

We fully endorse the conclusion that the text of the existing four Geneva Conventions of 1949 should remain untouched and that one of the basic objectives of United Nations efforts is the strengthening of the impact of the international Conventions, encouraging their full application and assisting in making their provisions better known in order that they may afford more effective help to those whom they are designed to benefit (A/8052, para. 14).
The Ukrainian SSR is strongly in favour of unconditional and full compliance with the Geneva Conventions of 1949 and the Geneva Protocol of 1925, which guarantee protection of the wounded, the sick, prisoners and civilians. At the same time, the Ukrainian SSR is prepared to support the further development of certain provisions of the Conventions, taking into account the present level of development of military technology. It is the task of the international community to bring about more accessions to the existing Conventions and full compliance with them.

Chapter IV, "Protection of civilians", a number of paragraphs in chapter V, "Protection of combatants", and several other sections of the report of the Secretary-General (A/8052) throw sufficient light on their subjects and deserve particular attention.

However, although we take a generally favourable view of the reports of the Secretary-General, we find some important shortcomings in them. The main shortcoming is that the reports make no distinction between the guilty parties in armed conflicts and the victims or between just and unjust wars. This, in our opinion, is the weakness of the reports, and references to their humanitarian nature do not seem sufficiently convincing.

The report says almost nothing about a question as important as that of the violation of the laws and customs of war by aggressors whose armed forces commit war crimes and crimes against humanity. Not enough attention is given to the problems dealt with in chapter VII, particularly the question of the prohibition and limitation of certain methods and means of warfare (paras. 122-126). This is of special interest, since one of the main themes of the report of the Secretary-General is the question of the conclusion of new international conventions for the "prohibition and limitation of certain methods and means of warfare".

The Ukrainian SSR cannot agree with the Secretary-General's statement in paragraph 13 that the purpose of the General Assembly in examining the question of respect for human rights in armed conflicts is a humanitarian one, independent of any political considerations which may relate to specific conflicts. On the one hand, this formulation appears to reflect an attempt to oversimplify the existing human rights problem resulting from armed conflicts, while, on the other hand, it

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detracts from the responsibility of the United Nations General Assembly to safeguard human rights and thus takes a position which is at variance with the functions of the Assembly and other United Nations organs.

The Government of the Ukrainian SSR also does not approve of the way in which the reports of the Secretary-General deal with the question of the protection of civilians and combatants in armed conflicts which arise from the struggles of colonial peoples for national independence and self-determination against racism, apartheid and similar ideologies and practices (chapter X, paras. 195-237). Although the reports devote considerable space to this question, the conclusions drawn are, in our opinion, inconsistent and contradictory. Above all, the intention has obviously been to cast doubt upon the importance and applicability of the Hague Conventions of 1907, the Geneva Protocol of 1925 and the Geneva Conventions of 1949 to civilians and combatants (paras. 204-237).

It should be noted that this question merits special consideration at the present time, since the protection of civilians and combatants in conflicts connected with the struggle of peoples under colonial and foreign rule for liberation and self-determination is inextricably bound up with the elimination of the vestiges of colonialism and neo-colonialism.

The Ukrainian SSR attaches great importance to this question and considers that participants in resistance movements and freedom-fighters in southern Africa and other Territories under colonial and foreign oppression should be given the status of prisoners of war in accordance with the principles of the Hague Convention of 1907 and the Geneva Conventions of 1949. In addition, such persons should be recognized as having all the rights accorded to combatants under the laws and customs of war. The denial to fighters in national liberation movements of protection under existing humanitarian rules does not, in our opinion, have a sound legal basis and is at variance with existing standards of international law.

Chapter IX of document A/8052, dealing with guerilla warfare, is of particular interest to the Ukrainian SSR. As is generally known, the struggle of peoples for independence and freedom is carried on in various forms, including guerilla warfare. Guerilla warfare, as a form of the struggle for national liberation, is often employed in conflicts of an international nature. This
question arose in a particularly acute form in connexion with the mass movement of peoples against the Nazi occupation forces during the Second World War.

Expressing its concern with the problem of the protection of human rights in armed conflicts, the Ukrainian SSR considers that the time has come to abandon the practice of classifying guerillas as participants in "border incidents". Moreover, there can be no doubt that the Hague and Geneva Conventions should be applied to this category of people.

In summing up the foregoing, we can draw the following specific conclusions:

1. The suggestions and conclusions contained in the report of the Secretary-General should be given thorough study and detailed analysis before any decisions are taken on them in the United Nations.

2. There should be further co-operation between all interested bodies which are in a position to contribute to a solution of the problem of the protection of human rights in armed conflicts. It should also be borne in mind that these questions are already being dealt with by the Commission on Human Rights and the International Committee of the Red Cross, which are fully competent to present, in due time, appropriate suggestions on this question for consideration by the General Assembly.

3. There should be unconditional and full compliance with the existing international agreements, which afford real protection of human rights in armed conflicts. The parties to armed conflicts should strictly observe the provisions of the existing international Conventions and other legal rules relating to armed conflicts.

4. In the formulation of legal rules relating to the protection of human rights in armed conflicts, the guiding principle should be the need to prohibit the use of weapons of mass destruction, especially nuclear, chemical and bacteriological (biological) weapons.

5. The further development of various provisions of the Conventions relating to respect for human rights in armed conflicts should be directed towards ensuring increased protection of civilians and persons fighting to win their freedom from colonial and foreign rule and from racist régimes.
UNION OF SOVIET SOCIALIST REPUBLICS

19 May 1971

1. The problem of the protection of human rights in armed conflicts has become particularly acute at the present time in view of the fact that in various parts of the world armed conflicts unleashed by the imperialist States are still taking place. The aggressive war being waged by the United States of America in Indo-China, Israel's aggression against the Arab peoples, the crimes of the Portuguese colonialists against the peoples of Angola, Mozambique and Guinea (Bissau) and the aggressive acts committed by the South African authorities against the people of Namibia and by the Southern Rhodesian authorities against the people of Zimbabwe all underline the need to take effective measures to protect human rights in armed conflicts. For this reason, we can only welcome the work done by the United Nations to perfect the rules of international law governing relations between States in such matters.

2. The report of the Secretary-General of the United Nations on respect for human rights in armed conflicts (A/8052) was the result of a considerable amount of work carried out by the United Nations Secretariat and it can serve as a basis for further study of the problem in the light of current international developments. At the same time, the report contains certain points with which we cannot agree and a number of points which require further study.

3. The Soviet State proceeds from the principle that peace provides the most favourable conditions for the protection of human rights. The Soviet delegation to the United Nations International Conference on Human Rights in 1968 voted in favour of resolution XXIII, which states that "peace is the underlying condition for the full observance of human rights and war is the negation". Therefore the principal and decisive way to safeguard human rights is to strive actively for the peace and security of all peoples.

A certain role in the protection of human rights and freedoms in time of armed conflict can also be played by the existing international conventions on this subject, in particular the Geneva Conventions of 1949 for the protection of war victims. Therefore, in considering the question of the protection of human rights in armed conflicts it is essential first of all to seek strict compliance with the aforementioned international agreements.

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This does not of course exclude the possibility of elaborating additional agreements which would strengthen the international legal protection of non-combatants, in particular the civilian population, in time of armed conflicts, in the light of the new situation in the development of international relations and the emergence of new means of warfare. In this connexion, we would like to draw attention to General Assembly resolution 2444 (XXIII) which explicitly prohibits "attacks against the civilian populations as such" and draws attention to the need to distinguish at all times between persons taking part in the hostilities and the civilian population.

4. When dealing with questions relating to the rules governing prisoners of war (see chapter VI of the report, "Protection of prisoners"), the problem of responsibility for violations of human rights in armed conflicts should be taken into account. The principles of criminal and international responsibility for crimes against peace, against humanity and against the laws or customs of war are formulated in the Charters of the Nürnberg and Tokyo Tribunals and are reaffirmed in many resolutions of the General Assembly of the United Nations. In accordance with these principles, the rules governing prisoners of war cannot be extended to persons who have committed war crimes or have ordered such crimes to be committed, irrespective of their whereabouts or of the period of time which has elapsed since the commission of the crime.

Appropriate provisions to this effect should be included in any instruments elaborated.

5. The protection of human rights in armed conflicts will be more effective if the use of weapons of mass destruction, in particular nuclear, chemical and bacteriological (biological) weapons, is completely prohibited. Unfortunately, the report (see chapter VII, "Prohibition and limitation of certain methods and means of warfare") pays insufficient attention to these important problems. The Soviet Union and other socialist countries have proposed that the existing obligations under international law relating to this matter should be supplemented by the conclusion of a convention on the prohibition of the development, production and stockpiling of chemical and bacteriological (biological) weapons and on the destruction of such weapons. These proposals should be taken into account in the elaboration of the rules of law relating to the protection of human /...
rights in armed conflicts since, as stated in the aforementioned General Assembly resolution 2444 (XXIII), "the right of the parties to a conflict to adopt means of injuring the enemy is not unlimited".

6. One of the most important principles of contemporary international law is that of non-intervention in internal affairs, laid down inter alia in the 1965 Declaration on the Inadmissibility of Intervention in the Domestic Affairs of States and the Protection of Their Independence and Sovereignty. This principle is not properly reflected in chapter VIII of the report, "Internal armed conflicts". In elaborating additional rules for the protection of human rights in armed conflicts, any attempt to "internationalize" internal armed conflicts should be resisted. Such "internationalization" could be used to justify foreign intervention in the internal affairs of States, which might lead to flagrant violations of the generally recognized rules of international law.

7. In connexion with the problems considered in chapters IX and X of the report (on guerrilla warfare and the protection of civilians and combatants in conflicts arising from the struggle of the peoples against colonial domination), it must be pointed out that, in accordance with the generally recognized principles of international law, the armed struggle waged against colonial oppression by the peoples in the exercise of their right to self-determination is an international conflict. Attempts to classify that struggle as an internal conflict lead to the violation of the rights of colonial and dependent peoples and are contrary to the Declaration on the Granting of Independence to Colonial Countries and Peoples. This should be a guiding principle in the elaboration of the relevant drafts.

8. In chapter XI of the report, "International assistance in, and supervision of, the application of humanitarian rules relating to armed conflicts", it is proposed that international machinery should be established to supervise the observance of human rights in armed conflicts. In this connexion, it must be stated that existing institutions should be used to supervise the application of humanitarian rules in armed conflicts. It is appropriate to note that a major obstacle to the use of these institutions is the unwillingness of the imperialist States to fulfil their international obligations under the Geneva Conventions of 1949 for the protection of war victims.