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RESPECT FOR HUMAN RIGHTS IN ARMED CONFLICTS

Comments by Governments on the reports of the Secretary-General

Note by the Secretary-General

Addendum

REPLIES RECEIVED FROM GOVERNMENTS

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1. Introduction

The Norwegian Government has already made some general comments on the two reports of the Secretary-General on "Respect for human rights in armed conflicts" (A/7720 and A/8052) in its note of 30 April 1971 to the Secretary-General. The Norwegian Government wants to elaborate its views in the light of the deliberations at the Conference of Government Experts on the Reaffirmation and Development of International Humanitarian Law Applicable in Armed Conflicts convened at Geneva from 24 May to 12 June 1971 by the International Committee of the Red Cross. Experts appointed by the Norwegian Government took an active part in these deliberations.

2. Measures intended to reinforce the implementation of the existing law

In the view of the Norwegian Government, an enduring solution to the question of respect for human rights in armed conflict can only be found through the elaboration of efficient mechanisms of implementation of existing and future instruments. For the time being, the search for such mechanisms of implementation may therefore be a more urgent task than the elaboration of new substantive rules.

There was general agreement among the participants at the Conference of Government Experts in Geneva that the functioning of the machinery of implementation laid down in the Geneva Conventions of 1949 has been unsatisfactory both in international conflicts and in armed conflicts not of an international character. In the view of the Norwegian Government, the possibilities of making a more efficient use of the existing mechanisms of implementation of the Conventions, as well as the need for new mechanisms of implementation, should be studied.

(a) More efficient use of the existing mechanisms of implementation of the Conventions.

According to article 8, common to the four Geneva Conventions (article 9 of the Fourth Convention), the Conventions "shall be applied with the co-operation and under the scrutiny of the Protecting Powers whose duty it is to safeguard the interests of the Parties to the conflict". According to article 10 common to the four Conventions (article 11 of the Fourth Convention), "The High Contracting Parties may at any time agree to entrust to an organization which offers all guarantees of impartiality and efficacy the duties incumbent on the Protecting Powers by virtue of the present Convention". With the exception of one single case, no Protecting Powers have been appointed under article 8 of the Conventions nor substitutes for Protecting Powers under article 10 of the Conventions in the post-1949 period. The Norwegian Government is of the view that one of the most immediate tasks at hand in order to ensure a better application of the Conventions, must be to ensure that this key function provided for in the Conventions is efficiently assumed whenever an armed conflict breaks out. The Norwegian Government considers that the United Nations may act as a substitute for Protecting Powers under article 10 of the Conventions whenever the parties to a conflict agree to entrust this function to the Organization.

The Norwegian Government also holds the view that it falls within the purposes of the United Nations for the Organization to assume this function. The Norwegian Government therefore submits for consideration that the United Nations at the outbreak of hostilities should automatically offer its services to the Parties to the conflict as a substitute for Protecting Powers under article 10 of the Geneva Conventions.

The Norwegian Government further wants to emphasize the legal obligation of a Detaining Power under article 10, paragraph (3), (article 11 of the Fourth Convention) of the Geneva Conventions to "accept, subject to the provisions of this Article, the offer of the services of a humanitarian organization, such as the International Committee of the Red Cross, to assume the humanitarian functions performed by Protecting Powers under the present Convention". In most, if not all, armed conflicts which have occurred subsequent to the adoption and entering into force of the Geneva Convention of 1949, the International Committee of the Red Cross has preferred not to use its legal right under this provision.
At the Conference of Government Experts in Geneva, many experts, including the Norwegian experts, urged the International Committee of the Red Cross to make maximum use of its legal right under this provision. The Norwegian Government endorses this view.

The Norwegian Government further wants to draw attention to article 1 common to the four Geneva Conventions, which reads: "The High Contracting Parties undertake to respect and to ensure respect for the present Convention in all circumstances." The possibilities of law enforcement embodied in this article have not been fully exploited by the international society. This was also the finding of the International Conference on Human Rights at Teheran in 1968. In the ninth preambular paragraph of its resolution XXIII, the Conference notes "that States parties to the Red Cross Geneva Conventions sometimes fail to appreciate their responsibility to take steps to ensure the respect of these humanitarian rules in all circumstances by other States, even if they are not themselves directly involved in an armed conflict". 2/

The International Committee of the Red Cross expresses the following view on the obligation of all Contracting Parties under article 1 common to the four Geneva Conventions in its Commentary to the Geneva Convention relative to the Protection of Civilian Persons in Time of War, edited by the present Vice-President of the Committee, Dr. Jean S. Pictet:

"... It follows, therefore, that in the event of a Power failing to fulfil its obligations, the other Contracting Parties (neutral, allied or enemy) may, and should, endeavour to bring it back to an attitude of respect for the Convention. The proper working of the system of protection provided by the Convention demands in fact that the Contracting Parties should not be content merely to apply its provisions themselves, but should do everything in their power to ensure that the humanitarian principles underlying the Conventions are applied universally."

In the view of the Norwegian Government, this provision clearly constitutes a legal basis for action by the High Contracting Parties through international organizations such as the United Nations. In the opinion of the Norwegian Government, article 1 also provides the legal basis for "collective action on the part of the international community" as foreseen in resolution 9 (XXVII) of the

2/ See Final Act of the International Conference on Human Rights, (United Nations publication, Sales No.: E.68.XIV.2), chapter 3.
Commission on Human Rights. It is the view of the Norwegian Government that action through the United Nations or other international organizations should be taken when respect for the Conventions cannot be ensured by the machinery of implementation laid down in the Conventions themselves.

The Norwegian Government holds the view that the question of providing personnel is another problem which deserves to be studied. This refers to personnel who are needed for taking over the control of the application of the Geneva Conventions and who have to be both competent and acceptable to the parties of the conflict. In the opinion of the Norwegian Government, the United Nations might fruitfully discuss possible ways and means of securing further progress in this area by drawing on the Secretary-General's experience in other fields.

(b) The need for new mechanisms of implementation of the Conventions

In the view of the Norwegian Government the question of the need for new mechanisms of implementation of the Conventions is closely linked to the question of more efficient use of the existing mechanisms of implementation. The Norwegian Government is of the opinion that priority must be given to the latter question. The Norwegian Government has, however, noted the important role played by ad hoc bodies established by the General Assembly and the Commission on Human Rights with the approval of the Economic and Social Council for the implementation of some of the Geneva Conventions in the occupied territories in the Middle East. The Norwegian Government approves the idea put forward by the Secretary-General (A/8052, paragraph 246) that conditions may now be ripe to encourage consideration of the idea of gradually moving away from the ad hoc approach towards setting up, on a more permanent basis, an agency of implementation under the auspices of the United Nations.

As an alternative solution the Norwegian Government approves the idea put forward by the Secretary-General (A/8052, paragraph 249) that a General Assembly resolution might outline the procedures leading to the appointment of Commissioners-General or similar ad hoc institutions whose services Member States which might become involved in an armed conflict would agree or undertake to employ.
(c) The relevance of the distinction between international conflicts and armed conflicts not of an international character

In the opinion of the Norwegian Government, the question of mechanisms of implementation of the Geneva Conventions raises separate problems in the case of international conflicts and in the case of armed conflicts not of an international character. The problem should therefore be studied separately for these two categories of conflicts.

3. The need for new substantive rules

(a) The relevance of the distinction between international conflicts and armed conflicts not of an international character

In the eighth preambular paragraph of resolution XXIII of the International Conference on Human Rights at Teheran in 1968, the Conference considers "that the Red Cross Geneva Conventions of 1949 are not sufficiently broad in scope to cover all armed conflicts". Subsequently, the General Assembly, in its resolution 2444 (XXIII), invited the Secretary-General to study, inter alia, the "need for additional humanitarian international conventions or for other appropriate legal instruments to ensure the better protection of civilians, prisoners and combatants in all armed conflicts". The Norwegian Government has noted that a guiding principle in all subsequent United Nations action within the field of human rights in armed conflicts has been the desire to develop rules applicable in all armed conflicts. It is in the view of the Norwegian Government beyond doubt that, once hostilities have reached a certain level, the claim of the civilian population and of other war victims for protection will be the same regardless of the legal classification of the conflict. To a large extent the same substantive rules should therefore, in the opinion of the Norwegian Government, apply in all armed conflicts. This principle, which is already laid down in several unanimous decisions of competent bodies of the United Nations, must continue to be a guiding principle for future work in this field, under the auspices of the United Nations as well as the International Committee of the Red Cross. The Norwegian Government therefore wants to question the desirability of maintaining a rigid distinction between international conflicts and armed conflicts not of an international character in the drafting of new substantive rules for the protection of war victims.
A further reason for not maintaining the distinction between international conflicts and conflicts not of an international character in the drafting of new substantive rules is the difficulty of classification of specific conflict situation. This difficulty, which can easily be used by the belligerents as a loop-hole to avoid the fulfilment of their obligations, is emphasized by the International Committee of the Red Cross in document VI submitted by the Committee to the Conference of Government Experts in Geneva, where the Committee at page 50, refers to "conflicts not corresponding entirely to the conventional definition envisaged in Articles 2 and 3 of the Geneva Conventions...".

(b) The protection of the civilian population

Article 4 of the Geneva Convention relative to the Protection of Civilian Persons in Time of War lays down nationality and military occupation as criteria for protection under the Convention. According to article 13 of the same Convention, only part II of the Convention has a broader application. For this reason, the Norwegian Government made the following statement in its note verbale to the Secretary-General of 11 September 1969:

"For the time being the Norwegian Government will limit itself to pointing out that the Geneva Convention relative to the Protection of Civilian Persons in Time of War in many respects appears to be directed mainly at the regulation of international conflict, and that, Article 3 of the Convention notwithstanding, certain specific terms of the Convention are not readily applicable to conflicts of a non-international character. For this reason, the Norwegian Government feels that the consideration of a special régime for the protection of civilian populations in non-international armed conflicts might be one of the fields of inquiry to which attention should be directed in any future study of human rights in armed conflicts."

The Norwegian Government still holds this view, and considers the unanimous adoption of General Assembly resolution 2675 (XXV) as an important step forward in this field. In the opinion of the Norwegian Government, the principles set forth in General Assembly resolution 2675 (XXV) should be embodied in a possible new international legal instrument as basic principles and rules for the protection of civilian populations in all armed conflicts.

In the view of the Norwegian Government, many of the provisions of the Geneva Convention relative to the Protection of Civilian Persons in Time of War are restatements of general principles of international law or of rules which could be considered customary international law already at the adoption of the Geneva Conventions of 1949. These rules are, in the opinion of the Norwegian
Government, binding in all armed conflicts and upon all parties to the conflict. The Norwegian Government considers that it might be useful if these rules could be reaffirmed by the General Assembly, without prejudice to their future elaboration within the framework of progressive development of the international law of armed conflicts, as the expression of general principles of international law applicable in all armed conflicts and binding upon all parties to a conflict. Such a declaration might, in the view of the Norwegian Government, cover inter alia the following rules:

(a) The physical safeguards of the civilian populations (protection of life, prohibition of coercion, corporal punishment, torture and other inhuman treatment);

(b) Protection of persons apprehended as spies or saboteurs because they are "definitively suspected of or engaged in activities hostile to the security of the State (article 5 of the Convention);

(c) Prohibition of collective punishment and reprisals;

(d) Prohibition of forcible transfers and deportations;

(e) Protection of the property of the civilian populations, notably the prohibition of destruction without absolute military necessity;

(f) The minimum standards for penal legislation and penal procedure;

(g) Protection in case of internment;

(h) Preventive measures and sanctions against violations of the Convention;

(i) The principle that the application of these rules are not subject to reciprocity.

(c) Guerrilla warfare

The Norwegian Government shares the view expressed by the International Committee of the Red Cross on page 2 of document VI submitted to the Conference of Government Experts in Geneva that "the word 'guerrilla' is not intended to signify a category of conflict, but a particular method of waging war which may be used in international as well as in internal conflicts". Hence, the task at hand in the current discussion of guerrilla warfare, must be to analyse the applicability and application in guerrilla warfare of existing rules, in order to discover and repair possible lacunae in the legal protection of war victims caused by the use of this method of waging war.
(i) The protection of the civilian population in guerrilla warfare

In contemporary guerrilla and counter-guerrilla warfare, certain large-scale assaults on the integrity of the civilian population have caused enormous human suffering and led to strong reactions in world public opinion. As examples of such assaults should be mentioned policies of so-called regroupings of civilian populations, i.e., the forcible transfer of parts of the civilian populations into so-called regroupment centres in order to separate the guerrilla units from their demographic environment. This policy is often combined with the declaration of certain geographical areas as so-called "open-fire-zones", i.e., areas where indiscriminate attacks, often with sophisticated anti-personnel weapons or weapon-systems, are authorized. Further should be mentioned the indiscriminate rocket and mortar attacks launched by guerrilla forces in certain contemporary armed conflicts against such regroupment centres and against urban areas under the control of the established Government.

In the view of the Norwegian Government, it seems obvious that these policies and practices violate existing rules of international law. The remedy against such assaults on the integrity of the civilian population is therefore not new law-making, but efficient law-enforcement both at the national and international level.

(ii) The protection of members of regular armed forces captured by guerrilla units

Experience has shown that the situation of members of regular armed forces captured by guerrilla units often has been precarious. Guerrilla units seldom have permanent control over the sufficient territory needed to establish prisoner of war camps, and they often lack the material means to meet the legal requirements of other provisions of the Third Geneva Convention. The Norwegian Government has noted the suggestion put forward by the Secretary General (A/8052, paragraph 181) that guerrilla units in such cases might hand over prisoners to an allied or neutral State as authorized in the Convention. The Norwegian Government wants to submit for consideration whether the United Nations and the International Committee of the Red Cross could and should assume a more direct responsibility for the prisoners in such situations and not limit themselves to the traditional control functions.
(iii) The protection of members of guerrilla units captured by regular armed forces.

None of the provisions in article 4 of the Geneva Convention relative to the Treatment of Prisoners of War contain any direct reference to guerrilla warfare or guerrilla organization. Members of guerrilla organizations or combatants waging guerrilla warfare may in specific cases be covered by the terms of paragraphs (1), (2), (3) and (6) of the said article 4. The Norwegian Government is, however, aware that many combatants in contemporary guerrilla warfare are not covered by any of the provisions of the said article 4. Norway, therefore, voted in favour of General Assembly resolution 2676 (XXV) where the General Assembly inter alia urges that combatants in all armed conflicts not covered by article 4 of the Geneva Convention of 1949 be accorded the same humane treatment defined by the principles of international law applied to prisoners of war. The Norwegian Government considers this provision as an authoritative statement of the view of a majority of the international community concerning this problem, and is therefore of the opinion that this provision should constitute the basis for the development of any new international rules in this field. Consequently such new international rules should, in the view of the Norwegian Government, be elaborated independently of article 4 of the Third Geneva Convention.

The Norwegian Government has noted that both the Secretary-General, in his two reports, and the International Committee of the Red Cross pay special attention to the provisions contained in article 4, paragraph (2), of the Third Geneva Convention in their discussion of the question of protection as prisoners of war for captured members of guerrilla units. The Norwegian Government is of the opinion that the importance which is attributed to the said article, paragraph (2), may be somewhat exaggerated. The provision itself makes no direct mention of guerrilla warfare or guerrilla organization, and does not in any other way expressively indicate that it purports to regulate situations of guerrilla warfare. It seems also clear that the conditions to be fulfilled in order to obtain status as prisoner of war under the said article 4, paragraph (2), contradict the very logic of guerrilla warfare. To the knowledge of the Norwegian Government, only two Governments, whose armed forces are engaged in counter-guerrilla warfare, have promulgated instructions for the
classification of captured members of guerrilla units as prisoners of war. In both these cases, no reference is made either to the said article 4, paragraph (2) or to the conditions contained therein.

Basing itself on this material and on the above consideration, the Norwegian Government is of the opinion that the only absolute condition which should be maintained for status as prisoner of war in guerrilla warfare - when hostilities have reached a certain level - is association to a guerrilla organization. A guerrilla organization should, in the view of the Norwegian Government, be defined in the same way as defined by the Secretary-General (A/8052, paragraph 191 (b) (ii)) as a movement having a high command capable of ensuring generally the execution of its orders, including as far as possible respect for the laws and customs of war.

(iv) The element of reciprocity and guerrilla warfare

The Norwegian Government has noted the considerations concerning reciprocity contained in the report entitled "Reaffirmation and development of the laws and customs applicable in armed conflicts" submitted by the International Committee of the Red Cross to the twenty-first International Conference of the Red Cross, at Istanbul in September 1969:

"Reciprocity is a de facto element which should not be neglected. It can play an important role in the effective application of the rules concerned. To admit this element, which is more of a sociological order, as a principle of international law in the field considered would however be very dangerous." 3/

The Norwegian Government shares those views of the International Committee of the Red Cross concerning the nature and limits of reciprocity as an element favouring compliance with the laws and customs of war. The Norwegian Government further wishes to point out that reciprocity as a de facto element of compliance with the law of armed conflict normally will be non-existent in situations of guerrilla warfare. It therefore seems to be a strong case for developing other mechanisms of implementation in these conflict situations.


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(v) Control systems and sanctions against violations of the laws and customs of war, and guerrilla warfare

In recent armed conflicts waged by means of guerrilla and counter-guerrilla warfare, one has witnessed frequent and grave breaches of the laws and customs of war both on the side of the guerrilla organizations and of the regular armies. This fact, together with the above-mentioned non-existence of reciprocity as a de facto element of compliance with these rules, do, in the opinion of the Norwegian Government, accentuate the need for development of international and national legal control systems and sanctions against violations of the laws of armed conflicts in case of guerrilla warfare.

The Norwegian Government has noted the opinion expressed by certain of the experts consulted by the International Committee of the Red Cross that compliance with the laws and customs of war, should be a constitutive condition for protection as prisoner of war for captured members of guerrilla units, in the same way as foreseen in article 4, paragraph (2), of the Third Geneva Convention. The Norwegian Government wants to remark that no similar constitutive condition exists for members of regular armies who have violated the laws and customs of war, and that such persons still can claim protection as prisoners of war under the Third Geneva Convention. Such prisoners can, however, be prosecuted by the Detaining Power under the provisions contained in part III, section V, chapter III, of the said Convention.

Article 85 of the said Convention regulates the case when prisoners of war are prosecuted under the law of the Detaining Power for acts committed prior to capture.

The Norwegian Government is of the opinion that it is an important condition for compliance with the laws and customs of war in guerrilla and counter-guerrilla warfare that members of guerrilla organizations and members of regular armies who have violated these rules be accorded the same treatment and be subjected to the same penal procedure and sanctions if captured. Any other solution to this problem would constitute a further reaffirmation of reciprocity as a de facto element of compliance with the law which would, in the opinion of the Norwegian Government, erode rather than enforce compliance with the laws and customs of war.

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For this reason, the Norwegian Government cannot agree with the view that compliance with the laws and customs of war should be a constitutive condition for protection as prisoner of war under the Third Geneva Convention for captured members of guerrilla units, as long as the same is not the case for captured members of regular armies. Instead, the Norwegian Government holds the opinion that there may be reason for an enlargement of article 85 of the Third Geneva Convention in order to provide more efficient sanctions against captured members of both regular armies and guerrilla organizations who have violated the laws and customs of war.

(d) Wars of national liberation

One of the brutal realities of our time, which was given renewed actuality to the laws of armed conflicts, is the fact that there still exist peoples who are forcibly deprived of their right to self-determination, freedom and independence. This fact makes the problem of wars of national liberation a predominant one. It is therefore with satisfaction that the Norwegian Government has noted the support which was given at the Conference of Government Experts in Geneva to the opinion that wars of national liberation constitute international conflicts in accordance with article 2 common to the four Geneva Conventions. A draft article reaffirming this principle was submitted by the Norwegian experts at the Conference (document CE/Com.II/3).

The General Assembly has on several occasions, in view of the armed conflict prevailing in certain territories in southern Africa, called upon certain Member States to ensure that the Geneva Convention relative to the Treatment of Prisoners of War, of 12 August 1949, be applied to this situation.

In the view of the Norwegian Government, the obligation of these Member States to apply the aforesaid Convention in this situation is laid down in article 4, paragraph (3), of the Convention. According to this provision, members of regular armed forces who profess allegiance to an authority not recognized by the Detaining Power are prisoners of war in the sense of the said Convention. This provision was included in the Convention in 1949 in view of the experience, during the Second World War, of the French National Liberation Committee, and of Italian troops who fought against the German forces in
southern Italy from September 1943 onwards. And the Norwegian Government is of the opinion that the same provision is applicable to members of national liberation movements resisting forcible action against the principle of equal rights and self-determination of peoples and pursuing their right to self-determination and freedom and independence.

(e) armed conflicts not of an international character

Considerable time was spent at the Conference of Government Experts in Geneva in defining the notion of "armed conflicts not of an international character". As stated above, the Norwegian Government wants to question the desirability of maintaining a rigid distinction between international conflicts and armed conflicts not of an international character in the drafting of new substantive rules for the protection of war victims. On the other hand, the question of mechanism of implementation of the Geneva Conventions should, in the view of the Norwegian Government, be studied separately for these two categories of conflicts.

In elaborating this point of view, the Norwegian Government wants to point out that all the substantive rules laid down in article 3 common to the four Geneva Conventions and applicable to armed conflicts not of an international character (the rules laid down in the first paragraph of the article) are rules of basic human rights which, under the Charter of the United Nations, the Universal Declaration of Human Rights and the two Covenants on Human Rights, apply in all situations both of peace and war. In accordance with the two Covenants on Human Rights, these rules cannot be derogated from, even in time of public emergency. The same substantive rules are also embodied in other parts of the Geneva Conventions of 1949 as far as international conflicts are concerned. In the view of the Norwegian Government, these are rules of customary international law which cannot be derogated from either in time of peace or in time of war. It is therefore unnecessary to define the notion of "armed conflicts not of an international character" in order to define the field of application of the substantive parts of the said article 3.

As has been developed above, the Norwegian Government considers that the criterion of "armed conflicts not of an international character" is inconvenient as a criterion for the applicability of new substantive rules of international law. In the view of the Norwegian Government, therefore, this purpose does not justify a definition of the said notion.
It is self-evident, in the opinion of the Norwegian Government, that the third and fourth paragraphs of the said article 3 do not necessitate a definition of the notion of "armed conflicts not of an international character".

The only part of the said article 3, the application of which could in the view of the Norwegian Government necessitate a definition of the notion of "armed conflicts not of an international character", is the second paragraph of the article, which reads: "An impartial humanitarian body, such as the International Committee of the Red Cross, may offer its services to the Parties to the conflict". Such a definition might also be useful for a further development of the machinery of implementation of the Conventions in armed conflicts not of an international character.

In view of the Norwegian Government, the notion must cover all armed conflicts except inter-State conflicts and wars of national liberation as defined above. The Norwegian Government is further of the opinion that the notion of armed conflict for this purpose should be defined as all situations where hostilities have reached such a level as to make application of the provision a humanitarian necessity.

(f) Prohibited weapons and methods of warfare

In the last decade, the attention of world public opinion has been drawn to certain aspects of modern technological warfare as applied notably in counter-insurgency warfare. In the fourth preambular paragraph of resolution XXIII of the International Conference on Human Rights, the Conference refers, inter alia, to the use of chemical and biological means of warfare, including napalm bombing, which erode human rights and endanger counter-brutality. In the seventh preambular paragraph of the same resolution, the Conference considers that the provisions of the Geneva Protocol of 1925 prohibiting the use of "asphyxiating, poisonous or other gases, and of all analogous liquids, materials or devices" have not been universally accepted or applied and may need a revision in the light of modern development.

The Norwegian Government has noted the suggestion advanced by the Secretary-General (A/9052, paragraph 126) that the Secretary-General might prepare with the assistance of qualified consultant experts, "a report on napalm weapons and the effects of their possible use".

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In the view of the Norwegian Government, it is an important task to ensure universal acceptance of the Geneva Protocol of 1925. In view of the broad acceptance of the said Protocol, the Norwegian Government cannot recommend a revision of the instrument. The Norwegian Government is also of the opinion that no evaluation can be made of the possible need for additional rules prohibiting weapons and methods of warfare before a comprehensive study of the weapons and methods in question and the effects of their possible use is submitted. It is only on the basis of such a study that Governments can evaluate whether the use of a given method or weapon is already prohibited under an existing rule and, if this is not the case, whether they desire to prohibit its use. In view of recent experience, the Norwegian Government holds the opinion that such a study should encompass modern weapons and weapon systems, including napalm, used inter alia in counter-guerrilla warfare, as well as the effects of their use. For the preparation of such a study, the Secretary-General might solicit information from all States members of the United Nations system or parties to the Geneva Conventions of 1949 and from the International Committee of the Red Cross.

4. Rules for International Humanitarian Relief to the Civilian Population in Disaster Situations created by Armed Conflicts

A Declaration of Principles for International Humanitarian Relief to the Civilian Population in Disaster Situations is laid down in resolution XXVI of the twenty-first International Conference of the Red Cross. General Assembly resolution 2675 (XXV) provided that this Declaration should apply in situations of armed conflicts, and that all parties to a conflict should make every effort to facilitate this application. For the purpose of incorporating the principles of the said Declaration in a possible new legal instrument, the Norwegian participants at the Conference of Government Experts in Geneva proposed four substantive draft articles (for the text of these draft articles, see document CE/Com.II/14 of the Conference).
5. Further work

(a) The procedure

In the opinion of the Norwegian Government, the magnitude and the character of the task at hand make a joint effort of the United Nations and the International Committee of the Red Cross indispensable. It seems to be wise to draw fully on the skill and experience of both organizations. The Norwegian Government considers the interplay that one has witnessed so far between the United Nations and the International Committee of the Red Cross as stimulating and thought-provoking for all parties concerned.

The Norwegian Government has therefore noted with satisfaction the convocation by the International Committee of the Red Cross of a second session of the Conference of Government Experts, to be held at Geneva in 1972. It can be mentioned in this connexion that the Norwegian experts at the first session of the Conference pointed out that the session could hardly be said to be fully representative of world society of today, and suggested that this problem could be solved by making the next session of the Conference open-ended, i.e. invite all States which are parties to the Geneva Conventions.

The Norwegian Government also hopes for a comprehensive discussion of substantive questions at the twenty-sixth session of the General Assembly. Such a discussion would undoubtedly give Governments which did not participate in the Conference of Government Experts in Geneva an occasion to express their view, and would form an important part of the preparatory work for the second session of this Conference.

(b) The drafting of new instruments

The Norwegian Government shares the view of the International Committee of the Red Cross that the four Geneva Conventions of 1949 should remain untouched and that new substantive rules in this field should be developed through additional protocols to these Conventions. The Norwegian Government is of the opinion, however, that the network of additional instruments proposed by the International Committee of the Red Cross in its documentation submitted to the Conference of Government Experts in Geneva should be simplified.
In the view of the Norwegian Government, it is essential for the efficient application of the rules that these are easily accessible also to persons who are not experts in the law of armed conflicts. Accordingly, overlapping and duplications should be avoided and the presentation of the rules should be as simple as possible.

The Norwegian participants at the Conference of Government Experts in Geneva therefore submitted a proposal containing a simplification of the proposal of the International Committee of the Red Cross (documents CE/Com.II/1, 2 and 3). The Norwegian Government has noted with satisfaction the support given to this Norwegian proposal from several other experts at the said Conference.