

HUMANITARIAN LAW IN ARMED CONFLICT

The 1971 initiative of the International Committee of the Red Cross (ICRC) to update the provisions of the Geneva Conventions came to fruition in June 1977 when the Diplomatic Conference at its fourth session adopted two Protocols relating to the protection of victims of international armed conflict (Protocol I) and victims of non-international armed conflicts (Protocol II). The Protocols will be open for signature in December of 1977.

Four years of protracted and difficult negotiation have resulted in the adoption of two instruments which represent a significant, and in the case of Protocol II, an unprecedented and innovative development of international humanitarian law applicable in armed conflict. The basic rationale behind the Protocols was to revise the law of armed conflict in the light of technological and political changes which have greatly altered the conduct of modern warfare. To this must be linked the humanitarian motive which sought to extend the protection given to victims of armed conflict, particularly civilians. The Protocols also reflect elements in the current climate of international politics, particularly the concerns of the developing countries. This has led to the adoption of controversial articles whose focus is national wars of liberation and the related issues of colonialism and racism. The injection of these elements has significantly changed the traditional concept of the law of armed conflicts. One can therefore approach the Protocols, particularly the first, from three general and interrelated perspectives: the political, the humanitarian and the technical.

Protocol I

The Conference began its deliberations in three Committees on April 12 after an opening plenary session. The plenary reconvened on May 23 to consider the articles adopted by the Committees and sat until June 11 when the texts of the two Protocols were adopted.

Previous editions of Current Issues have dealt with articles adopted at the first three sessions of the Conference. This brief report will highlight those provisions adopted at the fourth session and attempt to identify the most significant aspects of the Protocols in terms of the important developments in this area of international law. The actual changes are many, the first