

likely to find themselves involved in rebellion or a civil war, were very hesitant to agree to anything that placed the rebel side on equal terms with the established authority, or imposed an obligation to disseminate the contents of the protocol in a way that would appear to impose an obligation upon the government to inform its people of the rights they would have against that government, and restricting the government in its efforts to suppress any attempt at its overthrow. Since Protocol II was intended to operate in internal situations, when one of the parties was likely to rely upon the support of a civilian population untrained from the military point of view and not supplied with the technical and educational facilities of the government forces, it was contended, consistently by Canada, that the protocol should be kept as simple, non-technical and brief as possible, especially as many of the more refined elements of international conflicts would be absent, so that the intricacies and detail of Protocol I would be unnecessary. However, perhaps with a view to making its application less likely, there was a strong body of opinion at the conference that Protocol II should mirror Protocol I, even though at times this might mean introducing articles that were almost completely irrelevant in a non-international situation. However, in the last two or three weeks of the final session, when it appeared very likely that Protocol II would be completely lost, a major effort was made under the leadership of Mr. Justice Hussein of Pakistan, who cited the redrafted protocol Canada had prepared on an earlier occasion to explain the philosophy of a simplified Protocol II, to revive the notion of a simpler document, and this was finally adopted.

While one might regret the absence of this or that provision that has now been dropped, or that has not been carried over from the original Canadian proposal, it may well be possible that more states will accept Protocol II — states that are prone to civil war — than would otherwise have been the case. For the first time there exists an international instrument that seeks to postulate how a government and those opposed to it will conduct themselves in an armed conflict qualifying as a non-international conflict of the kind referred to above. The protocol is based on absolute non-discrimination and seeks in every way to preserve the rule of law on behalf of those who may be held in detention by either side during the conflict. The traditional recourse to cruel treatment,

such as torture, which seems to be inherent in any modern armed insurrection, is forbidden, while an attempt has been made to prevent one of the phenomena that became notorious in Vietnam and is being repeated in Africa — namely, the employment, by one side, of children. It is now forbidden to recruit any person under the age of 15 or to allow such a person to participate in conflict. On the other hand, no matter what offence such a wrongly-recruited individual may commit, no death penalty may be pronounced if he is below 18. In this he is better off than a pregnant woman or the mother of a young child who is dependent upon her, for such a woman is liable to the death penalty, though it may not be carried out during pregnancy or while the child is dependent. A Canadian attempt to postpone all executions until after the end of hostilities, by which time antagonisms might have relaxed, was not adopted.

Parallels are to be found with Protocol I in the increased protection afforded to medical personnel and units, although the claim to preserve professional secrecy, which might well serve to protect an injured rebel, is made subject to national law. The improved provisions for the care of the wounded and internees, as well as religious personnel, are similar, though on a reduced scale, to those included in Protocol I. Since a government or rebel authority expecting defeat is inclined to resort to extreme measures, the protocol expressly forbids collective punishments, attacks upon civilians and any acts intended to spread terror among the civilian population. As with Protocol I, objects that are part of the cultural or spiritual heritage of peoples are protected, thus ensuring, it is hoped, that neither side will destroy its own cultural and historical legacy. At the same time, in addition to forbidding starvation of the population, the protocol equally forbids either side to "attack, remove, destroy or render useless" objects like food or water installations indispensable to civilian survival. A further invasion of a government's right to preserve itself is to be found in the provision banning displacement of the civilian population for reasons related to the conflict, unless the security of those civilians is involved or such displacement is for "imperative military reasons" — as they will always be called. Reflecting the new concern with the environment, as well as the future of the country affected by the conflict is a provision, similar to one in Protocol I, to the effect that "works or installations containing dangerous forces