

*Regulations to cover medical personnel, new-born as well as infirm persons*

articles and proposals submitted by experts, and then arrived at recommendations on the basis of these texts, notwithstanding the fact that some experts objected that the commission had no authority to take decisions.

For instance, the Commission recommended that: special protection should be extended to civilian medical personnel (complete with a medical identity card) and to all kinds of civilian medical institutions — permanent or temporary (while in use), public or private — provided they were duly recognized by the competent authorities of the state within whose territory they operated; medical air transports should be included rather than excluded within the definition of "medical transports"; special protection and respect should be granted to the new-born as well as to infirm persons, expectant mothers and maternity cases; any act endangering health (i.e. physical mutilation and medical and scientific experiments, including the grafting or removal of organs, not justified by medical treatment) should be prohibited; and persons should not be punished for having carried out medical activities or been compelled to commit related acts contrary to professional rules and ethics. The provisions recommended by the commission were designed to be part of a comprehensive protocol to all four Geneva Conventions, rather than merely to the Fourth Convention (Protection of Civilian Persons) as envisaged at the first conference.

Commission I also drafted articles calling for the full protection of medical aircraft in the battleground area under the control of the party to the conflict employing the aircraft, and on the basis of flight plans agreed on in more forward areas where such control did not exist. The commission agreed that whenever a medical aircraft were recognized as such, it should not be the object of attack. To better identify such aircraft, the commission established a technical subcommittee which drafted an annex entitled *Recommended Standards, Practices and International Procedures for Identifying and Signalling Ambulance Aircraft*. This provided for better visual identification by means of flashing blue lights, improved radio voice communications on specific frequencies and secondary surveillance by radar beacon transponder systems.

Finally, the commission called upon the parties to a conflict to extend to national Red Cross societies the facilities and assistance necessary for the performance of their humanitarian activities.

Commission II reviewed the second

draft protocol, which dealt with non-international armed conflicts at present covered by Article 3 common to the four Geneva Conventions. At the first conference, the Canadian experts had asserted that this article did not provide sufficient protection for the victims of internal conflicts.

Although the need to expand common Article 3 was largely accepted by the experts, the question of whether this should be done in a separate second protocol was debated actively. Some argued that the victims of international and non-international armed conflicts should be protected equally by a single protocol, but most believed that the nature, conditions and basic differences of non-international conflicts required separate treatment. It was generally agreed, however, that wherever possible the language of the two protocols should be similar.

The ICRC draft protocol, which it was admitted was based essentially on the 1971 Canadian draft but which went far beyond the Canadian draft by introducing rules of combat as opposed to purely humanitarian rules, was defined to apply to all situations where hostilities of a collective nature occurred between "organized armed forces under the command of a responsible authority". Experts differed over whether the application of the protocol should be made broad and flexible to cover internal armed conflicts of relatively low intensity, or be made narrow and precise to cover only conflicts of high intensity where both parties, including the rebels, had at least quasi-governmental authority, control of some territory and the capacity to abide by the protocol. Some experts considered that "wars of national liberation" were international in nature and, therefore, should be excluded from the second protocol and treated differently from conflicts of secession or dismemberment of a territory.

Practically all experts agreed, however, on the need to provide captured combatants with the humane treatment not at present provided for in common Article 3. Although some favoured the granting of prisoner-of-war status, or a similar status, to guerrilla fighters and other persons meeting certain minimum requirements, most favoured the more basic treatment extended to civilians deprived of their freedom for acts connected with the conflict. Some experts proposed the abolition of the death penalty for combatants who had fought fairly, i.e. had respected the essential provisions of the laws of armed conflict. Others considered that the execution of combatants should simply be suspended until hostilities had terminated in