

- Also decides to include the item "Deportation of Palestinians in Violation of International Law, particularly the Geneva Convention of 1949 and the Massive Immigration and Settlement of Jews in the Occupied Territory" in the agenda of the 31st Session of the Committee.

(iii) Sectariat Study : Deportation of Palestinians in Violation of International Law, in particular the Geneva Conventions of 1949

I. Note by the Secretariat-General

The item "Deportation of Palestinians in Violation of International Law, in particular the Geneva Conventions of 1949", had been taken up by the AALCC following a reference made by the Government of the Islamic Republic of Iran. The decision to inscribe the item on the agenda of the Twenty-seventh Session was taken up at a meeting of the Heads of Delegations held on 14th March, 1988.¹ The matter was thereafter considered at the Second Plenary Meeting of that Session of the AALCC during which it was decided that the Government of Islamic Republic of Iran would furnish the Secretariat with a memorandum and that the Secretariat would conduct study on the basis of the memorandum to be furnished.² A preliminary report, as requested, on this topic has been prepared by the Secretariat.

The consideration of this item at the Twenty-eighth Session of the Committee was likely to be directed to a preliminary discussion of the subject as a whole but it would be useful if attention could be focussed on the following :

1. See *Summary Records of the Meetings of the Heads of Delegations to the Twenty-seventh Session of the Asian-African Legal Consultative Committee* held at Singapore in March 1988. Paragraph 7 of the Summary Records of the First Meeting p.1.
2. See *The Proceedings of the Second Plenary Session in the Verbatim Record of the Proceedings of the Plenary Sessions of the Twenty-seventh Session of the AALCC* held at Singapore in March 1988, pp. 65-77.

- (i) Customary international law of armed conflict and the obligations of occupying power thereunder;
- (ii) Contemporary international humanitarian law as codified in the four Geneva Conventions of August 1949 and the two additional protocols of 1977;
- (iii) The corpus of *opinio juris* which has over the years underscored the applicability, in the Palestinian territories occupied by Israel, of the provisions of the Geneva Convention relative to Protection of Civilian Persons in Time of War, 1949; and
- (iv) Consideration of the course of action for the future work of the Committee on the subject.

At the first blush it may seem inappropriate or even irrelevant to focus attention on and to consider the laws of armed conflict. It may, however, be pertinent to recall that it was customary international law which had first drawn a distinction between civilians and combatants. It may also be stated in this regard that by virtue of common Article 55 of the Hague Convention (II) of 1899, and the Hague Convention (IV) of 1907 Respecting the Laws and Customs of War on Land, the occupying State is placed under a special duty to protect public property in the occupied territory according to the rules of *usufruct*. It is indeed regrettable that in flagrant violation of the provisions of forementioned articles, Israel has, *inter alia*, made unauthorized use of the West Bank and the Golan Heights land by converting part of it into settlements for its own nationals.

The consideration of the (codified) international humanitarian law is indeed the heart of the matter and comprises international human rights law and laws of armed conflicts. Both are universally applicable, the former in times of peace and the latter when States resort to the use of force in their international relations. It has been argued, and rightly so, that the principles of international humanitarian law are rules of the nature of *jus cogens* as defined by Article 53 of the Vienna Convention on the Law of Treaties, 1969. The provisions of the four Geneva Conventions of 1949 and the two supplementing protocols of 1977 are thus of nature of peremptory principles from which no derogation is permissible.

The Geneva Convention specifically stipulates that civilians who, in case of conflict or occupation find themselves in the hands of a Party to the Conflict or of an occupying power of which they are not nationals are protected persons and that such acts as

- (i) extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly, and
- (ii) unlawful deportation or transfer of protected persons under the fourth Convention

constitute grave breaches of the Convention.

It may be recalled that Article 55 of the Charter of the United Nations, *inter alia*, regards respect for, and observance of, human rights and fundamental freedoms, as a principle of international law and all States Members of the United Nations are pledged to take action in cooperation with the Organization for the achievement of that objective. It is fitting, therefore, that the corpus of *opinio juris* which has evolved over the years has emphasized the applicability of international law in general and the provisions of the four Geneva Conventions and the Protocols thereto. It has its roots in numerous resolutions of both the Security Council and the General Assembly of the United Nations.

The Israeli presence and its activities in occupied Palestine in general and the deportation of Palestinians from the occupied territories in particular have been the subject matter of condemnation in numerous resolutions and decisions adopted by such regional organizations as the Organization of African Unity, the League of Arab States and the Non-Aligned Movement. The individual States, Members of the International Community, with the exception of racist regime of South Africa; have also censured and decried the occupation of Palestine and the expulsions of the Palestinian peoples therefrom, contrary as these practices are to general principles of law recognised by civilised nations. Publicists, all over the world, have in their writings alternately criticized and pleaded against such flagrant violations.

Within the parameters of Article 38 of the Statute of the International Court of Justice there remains only the issue of obtaining an authoritative pronouncement from the world court. The Israeli government has remained unabashed, unaffected even in the teeth of the Israeli Supreme Court judgements in the Elon Moreh Settlement petition which, *inter alia*, challenged the Israeli Government's position on Settlement and on the basis of Article 52 of the Hague Regulations declared an Israeli Civilian Settlement near the Nablus in the occupied West Bank to be illegal.³

3. For the text of the decision see *International Legal Materials*, Vol. 19 (1980), p. 148.

Finally it needs to be stated that the topic is not totally bereft of complexities both legal and political. In view of the complexity of the subject it is felt that the work on the topic may need to be undertaken in progressive stages both as regards the preparatory studies as also the exhaustive examination of the relevant instruments. In this regard it is submitted in the first stage the Committee could decide upon the parameters and scope of the study. In defining the parameters and scope of the study it may, perhaps, be useful to consider whether the future study needs to examine the provisions of all the relevant international instruments, i.e. the two Hague Conventions of 1899 and 1907 respectively, the four Geneva Conventions of 1949 and the Protocols I and II of 1977 thereto together with such other international instruments as may be pertinent.

II. Preliminary Report prepared by the Secretariat

The subject "Deportation of Palestinians in Violation of International Law, Particularly the Geneva Conventions of 1949" was taken up by the AALCC consequent upon a reference made by the delegation of the Islamic Republic of Iran. Based on the views exchanged at the Session, the Islamic Republic of Iran submitted a Memorandum to the AALCC Secretariat which would form the basis for the study on the subject.

A cursory reading of the Memorandum as also the introductory statement of the delegate of the Islamic Republic of Iran would reveal that the Secretariat is called upon to study the legal consequences of the deportation of Palestinians from the occupied territories. In this regard it may be recalled that there are in effect three types of Palestinians, viz:

- (i) Those inside pre-1967 Israel;
- (ii) Those in areas other than Israel and the occupied territories; and
- (iii) Those inside occupied territories.

If this three-fold classification is tenable, then the norms and principles of public international law applicable would differ from case to case.

With respect to the first category, it may be stated that the Arab minority in Israel is denied civil rights and is discriminated against in the fields of employment and education and that for a long time Palestinian Arabs had no freedom of movement. The denial of fundamental civic and basic human rights is borne out by the fact

that as late as 1976 "only six out of the 120 seats in the Knesset were held by Arabs".⁴

In so far as the Palestinians in areas other than Israel and the occupied territories are concerned, these would be governed by such principles, norms and rules as are stipulated *inter alia* in the Convention Relating to the Status of Stateless Persons, New York 1945⁵; the Convention on the Reduction of Statelessness, New York 1961⁶; the Universal Declaration on Human Rights, 1948⁷; and the International Covenant on Civil and Political Rights, 1966⁸ and other relevant international instruments.

Finally as regards the Palestinians in the occupied territories it is largely a question of interpretation, application and enforcement of International Humanitarian Law. International Humanitarian Law in the words of Professor Miyazaki is a law "concerning the protection of *human rights* in armed conflicts with provisions in legal instruments such as the four 1949 Geneva Conventions for the protection of victims of war and the two 1977 Protocols thereto as its nuclei".⁹

The Setting

The General Assembly by its resolution 181(II) of November 29, 1947 called for the establishment of two independent States, one Arab and the other Jewish, subject to provision for economic union. This plan was acceptable to the Zionists, but was rejected, *in toto*, by the Arabs and other States. On May 14, 1948, Israel made a unilateral declaration of independence—which was condemned by the Arab States. Thereafter the armies of Syria, Lebanon, Jordan, Iraq and Egypt defended the Palestinian rights against the Israeli aggressors. At the end of the war the new entity of Israel controlled an area one-third bigger than it would have had under the 'Partition Resolution'.

Thereafter in June 1967 Israel invaded the Sinai Peninsula as far as the East Bank of the Suez Canal in the West and the Straits of

4. See Premakov E: "The Problem of Palestine in the 20th Century: Origins, Evolution, Prospects in The Palestine Problem: Aggression, Resistance, Ways of Settlement (Moscow, 1984), p. 8 at 14.
5. For the text of the Convention see UNTS Vol. 360 (1960) p. 117 at 130 et seq. The Convention entered into force on June 6, 1960.
6. For the text of the Convention see UNTS Vol. 989. The Convention entered into force on December 13, 1975.
7. As adopted by United Nations General Assembly Resolution 1948.
8. General Assembly Resolution 1066 (XXI) of December 16, 1966.
9. Shegei Miyazaki "The Martens Claus and International Law" in C. Swinarski (Ed) *Studies and Essays on International Humanitarian Law and Red Cross Principles* (ICRC, Geneva, 1984), p. 433: Emphasis added.

Tiran in the South. It also occupied the West Bank of the River Jordan, that part of the City of Jerusalem which was not previously occupied as well as the Golan Heights in Syria. Israel continues to the present day to hold Golan Heights and in 1982 acted to incorporate them (the Golan Heights) as part of its domain. Those areas had neither previously been part of Israel's territory nor otherwise under its administration. It is by reason of such entry of its armed forces, that Israel established control and thus began to exercise authority over these territories and under International Law, Israel thus became a belligerent occupant of these territories. In this regard it would be recalled that Article 42 of the Hague Regulations, 1907 stipulates that "Territory is considered occupied when it is actually placed under the authority of the hostile army. The occupation extends only to the territory where such authority has been established and can be exercised". One can infer from this description that in an effective occupation the previous government in the territory has been rendered incapable of exercising there its governmental authority and that the occupying power has substituted its own authority for it.

The rights of the occupying power are, however, only temporary and not permanent. They (the rights of the occupying power) are incidental to war and for the purposes of war. The *de jure* sovereignty still remains vested where it was before the territory was occupied, although the legal sovereign is obviously unable to exercise the ruling power in the occupied territory.

It may be stated that the doctrine of illegality of aggressive war rules out the possibility of occupation and annexations as modes of acquisition of territory. Lord McNair is of the view that "the most important principle of law incident to belligerent occupation . . . is that occupation does not displace or transfer sovereignty. The occupant is entitled to exercise military authority over the territory occupied but he does not acquire sovereignty unless and until it is ceded to him by a treaty of peace . . . or is simply abandoned in his favour without cession . . .".¹⁰

The Declaration of Principle of International Law Concerning Friendly Relations and Cooperation Among States, in accordance with the Charter of the United Nations, *inter alia*, stipulates that no "territorial acquisition resulting from the threat or use of force shall be recognised as legal".¹¹ The definition of Aggression as adopted by

10. See A. McNair : *Legal Effects of War* (Cambridge Press, 2nd Ed. 1944), p. 320.

11. See General Assembly Resolution 2625 (XXV) of October 24, 1970.

the General Assembly at its Twenty-ninth Session reiterates this principle thus "No territorial acquisition or special advantage resulting from aggression is or shall be recognised as lawful."¹²

Concerning the status of territory under the occupation of a belligerent power the United States State Department is of the view that "Territory coming under the control of a belligerent occupant does not thereby become its sovereign territory. International law confers upon the occupying State authority to undertake interim military administration over the territory and its inhabitants, that authority is not unlimited. The governing rules are designed to permit pursuit of its military needs by the occupying power, to protect the security of the occupying forces, to provide for orderly government, to protect the rights and interests of the inhabitants and to reserve questions of territorial change and sovereignty to a later stage when the war is ended."¹³ Further, as early as 1968 a special statement made by an official representative of the US State Department in connection with measures taken by the Israeli Government with regard to Jerusalem said :

"It remains the US position that the part of Jerusalem which came under the control of Israel in the June war, like other areas occupied by Israel, is occupied territory and therefore subject to the provisions of international law governing the rights and obligations of an occupying power.

Israel is a party to the Geneva Convention on the Protection of Civilian Persons in Time of War. We, therefore, consider the Government of Israel and its armed forces obligated to abide by the provisions of the Convention in their actions in the occupied territories".¹⁴

At this juncture it may be pertinent to examine the provisions of the Geneva Convention of 1949 relating to the occupied territories and to inquire into the status, rights and privileges of the inhabitants of the territories occupied by a belligerent power.

Article 2 of the Geneva Convention Relative to the Protection of Civilian Persons in Time of War, 1949 stipulates that it shall apply to all armed conflicts which may arise between parties to the

12. See Article 5 of the Definition of Aggression as adopted by the General Assembly Resolution 3314 (XXIX) of 14 December, 1974.

13. See the letter from State Department Legal Advisors concerning Legality of Israeli Settlements in the occupied territories of April 21, 1978 in *International Legal Materials* Vol. XVII (1978) p. 777 at 778 (Emphasis added).

14. See *Israel and the Geneva Conventions* (Beirut 1968).

Convention, whether war has been declared or not, and even if one of the participants refuses to recognise a state of war. It also applies to all partial or total occupations of the territory of a party, even if the occupation is not resisted. The parties undertake to respect and ensure respect for the Convention in all circumstances, including those conflicts in which one or more of the participants are not parties to the Convention. In the latter cases, parties to the Convention are bound by it in their mutual relations; and also as regards the non-parties, provided these in fact accept and apply its provisions.¹⁵

Protected Persons

Persons protected by the Geneva Convention are those civilians who, "at a given moment and in any manner whatsoever" find themselves in the event of a conflict or occupation in the hands of a party to the conflict or occupying power of which they are not nationals. The negative form of the phrase in the hands of a party to the conflict or occupying power makes it unnecessary to mention stateless or denationalised persons because stateless persons etc. not being nationals of the occupying power are *ipso jure* protected persons. It may however be stated that denationalisation is a war crime.¹⁶

The Fourth Geneva Convention *inter alia* stipulates the civilian population's entitlement to safety and protection. This is explicitly enunciated in the first paragraph of article 27 which reads as under :

"Protected persons are entitled, in all circumstances, to respect for their persons, their honour, and their manners and customs. They shall at all times be humanely treated, and shall be protected especially against all acts of violence or threats thereof and against insults and public curiosity."

The responsibility of the occupying power is emphasized in article 29 of the forementioned Convention. That article provides :

"The Party to the conflict in whose hands protected persons may be, is responsible for the treatment accorded to them by

15. The Geneva Convention was signed by 60 States, including Israel. It came into force on 21 October 1950. For the complete text of the Convention see *UNTS* Vol. 75 (1950) p.287 et seq. For a detailed discussion of persons and circumstances to which the Convention applies see Greenspan, M. *The Modern Law of Land Warfare* (University of California Press, Berkeley 1959) p. 156 et. seq.

16. See Report of UN War Crimes Commission (London 1948), p. 34. Also see Greenspan op. cit. note 15, p. 466.

its agents, irrespective of any individual responsibility which may be incurred."¹⁷

It would be recalled that on December 22, 1987 the Security Council adopted resolution 605 (1987) which, *inter alia*, requested the Secretary-General to examine the present situation in the occupied territories by all means available to him, and to submit a report containing his recommendations on ways and means for ensuring the safety and protection of Palestinian civilians under Israeli occupation. In this report the Secretary-General, among other things, stated that Israeli violations of provisions of the fourth Geneva Conventions have, since 1970, been frequently alluded to in the annual reports of the International Committee of the Red Cross (ICRC), which is the guardian of the Geneva Conventions of 1949. The report also listed such instances, of the violations of the provisions of the Geneva Convention of 1949 relating to civilians in time of war, as :

- (i) Attempts to alter the status of Jerusalem (Violative of article 47):
- (ii) The establishment of Israeli Settlements in the occupied territory (violative of paragraph 6 of article 49);
- (iii) Deportation of Palestinians from occupied territories (violative of paragraph 1 of article 49);
- (iv) Collective punishments e.g. curfews applied to whole districts (violative of article 33); and
- (v) Destruction of houses (violative of article 53)

The reports also point out that there was evidence that in dealing with demonstrations and other disturbances, Israeli Defence forces had used disproportionate force, leading to fatal casualties, which could be avoided if less severe or harsh measures had been employed and that there were grounds for grave concern about whether the practices of the Israeli Security Forces are always consistent with Article 32 of the Fourth Geneva Convention. Article 32 of the Convention prohibits parties from taking any measure of such a character as to cause the physical suffering or extermination of protected persons in their hands. The prohibition applies *inter alia* to any measures of brutality whether applied by civilian or military agents.

At this juncture it would not be irrelevant to reiterate that Article 4 of the Geneva Convention stipulates that civilians who, in case of

17. See note 16 Supra.

conflict or occupation find themselves in the hands of a Party to the conflict or of an Occupying Power, of which they are not nationals are protected persons and that by virtue of the provisions of Article 147 of the Convention such acts as

- (i) wilful killing;
- (ii) torture or inhuman treatment, including biological experiments;
- (iii) wilfully causing great suffering or serious injury to body or health;
- (iv) extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly;
- (v) compelling protected person to serve in the forces of a hostile power;
- (vi) depriving a protected person of the rights of fair and regular trial prescribed in the conventions;
- (vii) taking of hostages;
- (viii) unlawful confinement of protected persons under the fourth Convention; and
- (ix) unlawful deportation or transfer of protected persons under the Fourth Convention

constitute grave breaches of the Conventions respectively.

Israel has been waging not merely a military war but an economic war too. When Israel captured the Gaza Strip and the West Bank in 1967, it swiftly transformed those territories into what Israeli demographer Meron Benvenisti described as "a colonial set up of the first order". These occupied territories became a source of cheap labour as also a captive market for Israeli goods. Israel's construction industry draws about 42 percent of its work force from the occupied territories. The 108,000 West Bankers and Gazans who commute to work to Israel receive as little as half the wages paid to Jews for comparable work. Many Arab workers pay 20 percent of their earnings to Israel's social security agency but receive none of its benefits, which include unemployment compensation and pensions.

Even though the territories have been importing about US \$ 780 million worth of goods every year there have always been extensive limitations on Palestinians exports to Israel. The occupation regime

imposed so many restrictions on new Arab industry that those factories account for a smaller share of the West Bank economy than they did in 1967. Palestinian farmers are charged twice as much for irrigation water as farmers in Israel pay and they do not receive any of the marketing subsidies provided to Israelis. Finally it may be stated that the Occupying Power has been taking in an estimated US \$ 80 million a year more in taxes from the territories than it pays out for social services there.¹⁸

Violative as the forementioned acts are of the provisions of the Universal Declaration on Human Rights and the International Covenant on Economic, Social and Cultural Rights, 1966 they also go against the grain of Article 40 of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, 1949.¹⁹ Article 40 of the Geneva Convention, *inter alia* stipulates that protected persons shall have the benefit of the same working conditions and of the *same safeguards as national workers*, in particular as regards wages, hours of labour, clothing and equipment, previous training and compensation for occupational accidents and diseases.

Deportation of Civilian Persons

Contemporary international law prohibits the deportation of the civilian population of occupied territories to the territory of the occupying force or any other State. This provision was also reflected in the Fourth Hague Convention of 1907. It was worded even more clearly in Article 49 of the 1949 Geneva Convention. The same article prohibits the occupying power from shifting part of its own civilian population to the territory occupied by it. Article 49 of the Convention applies in occupied territories to all civilians and clearly prohibits forced transfers except where "imperative military reasons so demand", and in such cases movement outside the bounds of occupied territory is prohibited except when for material reasons it is impossible to avoid a such displacement. Thus the freedom and authority of the occupying power is quite limited. This applies to the so called militarised settlements. The Israeli settlements embrace more than 27 percent of the territory on the West Bank of the Jordan River and a large part of the Golan Heights, large tracts have been taken over in the Gaza Strip also.

18. See Israel Wages Economic War in *Newsweek*, March 28, 1988, p. 35.
19. For the text of Article 18 see op. cit. note 15, p. 287. Emphasis added.

Settlements in Occupied Territories

The creation of militarised settlements²⁰ runs counter to Article 53 of the Geneva Convention for it is merely a means of depriving the local inhabitants of their property and a method of implementing discrimination. Only Jews are allowed to live on the lands seized from the Arabs and intended for settlers.²¹ The United Nations condemned these Israeli actions.²² By its resolution 252 of May 21, 1968 the Security Council declared them juridically invalid.

Israel's justification of its settlements in the occupied areas has hitherto centered on four arguments viz. (i) Geneva Convention Relative to the Protection of Civilians in Time of War, 1949 is inapplicable²³; (ii) Israel is not an occupant power in the legal sense, at least not on the West Bank²⁴; (iii) the occupied areas particularly the West Bank—represent traditional parts of the ancient homeland of the Jewish people and therefore could validly be reclaimed by Jewish settlers; and (iv) the settlements were needed for national security reasons. These assertions would require to be considered.

Legally speaking all four arguments mentioned above fail in light of the clear and unambiguous stipulations of the Geneva Convention

20. The Israeli government reportedly intends to move up to two million Israelis to these settlements. In respect of the settlements in the Golan Heights, the former Israeli Prime Minister Yitzhak Rabin states that Israel did not build the settlements in the Golan Heights so as to abandon them or to create a situation as a result of which they would not be a part of the Jewish State. A former Minister of Housing, Abraham Ofer, admitted that "These settlements are important to us in defining the borders of the State and in strengthening our security." Thus, the Israeli government is committing an act of annexation of Arab territories, in signal violation of international law. The United Nations General Assembly has repeated and stressed the impermissibility of annexing occupied territory.

21. Article 53 of the Convention reads as follows: "Any destruction by the occupying power of real or personal property belonging individually or collectively to private persons, or to the State, or to other public authorities, or to social or cooperative organizations, is prohibited, except where such destruction is rendered absolutely necessary by military operations".

22. Artisbasov Ivan: *In Disregard of the Law* (Progress Publishers, Moscow 1981), p. 209.

23. This has been vigorously defended *inter alia* by the former Israeli Attorney General, Meir Shagar. It may be stated that this stance of the occupant power has been noted in the Islamic Republic of Iran's Memorandum in the following words "The occupation regime of al-Qods claims that the occupied Arab territories are not included in the provisions of the Geneva Convention of 1949, because the nature of these territories is different from what the sponsors of Geneva Convention of 1949 had in mind, and that for the member States of the international community, these territories had not indisputably been included in the Arab lands." (Emphasis added).

24. This view was expounded by the former Prime Minister, Menachem Begin, on July 27, 1977 when he rejected the U.S. charges of illegality relative to the Israeli settlements.

of 1949 as also the provisions of the Protocol(s) Additional to the Geneva Convention.²⁵

The contention that "the occupied Arab territories are not included in" or not covered by "the provisions of the Geneva Convention of 1949 because the nature of these territories is different from what the sponsors of Geneva Convention of 1949 had in mind" is not tenable. The Convention is automatically applicable upon the outbreak of the hostilities and the application of the provisions of this international legal instrument in territories occupied by the belligerent is not subject to the requirement that the ousted power is the legitimate sovereign of the occupied territories. It is humanitarian considerations that are the fundamental basis of the Geneva Conventions, 1949. Further it would be recalled that the Geneva Protocol I relating to the Protection of Victims of International Armed Conflicts, 1977 (hereinafter simply called the 1977 Geneva Protocol I or Protocol I) supplements the Geneva Convention of 1949 for the Protection of War Victims.²⁶ Paragraph 4 of Article 1 of the 1977 Geneva Protocol I closes a "tiny technical loophole" in common Article 2 of the 1949 Geneva Conventions by making it clear that the law on occupation is applicable even in situations where the occupied territory was not universally viewed as having been part of "the territory of a High Contracting Party". Paragraph 4 of Article 1 of Protocol I stipulates:

25. The Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law Applicable in Armed Conflicts convened by the Swiss Federal Council, held at Geneva, had at its fourth session in 1977 adopted Two Protocols Additional to the Geneva Conventions of August 12, 1949. Protocol I Relating to the Protection of Victims of International Armed Conflicts and Protocol II Relating to the Protection of Victims of Non-International Armed Conflicts. For the text of the Protocols see *The Official Records of the Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law Applicable in Armed Conflicts*, Geneva 1974-77 (Federal Political Department, Bern, 1978) Vol. I.

26. See Article 1 Paragraph 3 of Protocol I reads "This Protocol, which supplements the Geneva Convention of 12 August 1949 for the Protection of War Victims, shall apply in the situations referred to in Article 2 common to these Conventions".

Article 2 of the four 1949 Geneva Conventions states:

"In addition to the provisions which shall be implemented in peacetime, the present Convention shall apply to all cases of declared war or of any other armed conflict which may arise between two or more of the High Contracting Parties, even if the State of War is not recognised by one of them.

The Convention shall also apply to all cases of partial or total occupation of the territory of a High Contracting Party, even if the said occupation meets with no armed resistance.

Although one of the Powers in conflict may not be a party to the present Convention, the Powers who are parties thereto shall remain bound by it in their mutual relations. They shall furthermore be bound by the Convention in relation to the said power, if the latter accepts and applies the provisions thereof."