

APPENDIX

ANC Statement on Signing Declaration on Behalf of the ANC and Umkhonto we Sizwe. Adhering to the Geneva Conventions of 1949 and Protocol I of 1977. At the Headquarters of International Committee of the Red Cross, Geneva, November 28, 1980

Mr President

Ladies and Gentlemen

The African National Congress of South Africa is deeply honoured to be received today by the International Committee of the Red Cross and by its President, M. Alexandre Hay. Our movement, the oldest national liberation movement in Africa, has had a number of meetings with the delegates of the ICRC in the past and we have come to respect their probity and fairness. The Red Cross has rightly been described as the guarantor of the impartiality and efficacy of the famous Conventions of 1949 whose reaffirmation and development in 1977, largely under the auspices of the ICRC, has led to our presence here in Geneva today.

We recognise that your Committee, associated as it is with the work of the Conventions and the need to provide relief and hope to prisoners of war and civilians caught in the violence of war, must remain non-political if it is to retain the trust of governments. But you will not, I hope, take it amiss if I explain the presence of the delegation of the African National Congress in Geneva today to participate in what is a solemn and historic ceremony for my movement.

Apartheid, the policy of official discrimination enshrined in the law and constitution of South Africa, has now been legally denounced as a crime against humanity and has led to an International Convention for the Suppression and Punishment of the Crime of Apartheid. Protocol I of 1977 itself recognises that 'practices of apartheid and other inhuman and degrading practices involving outrages upon personal dignity, based on racial discrimination' constitute grave breaches of the Conventions and must therefore join the list of crimes identified at the Nuremberg War Crimes Tribunal.

The international community has therefore recognised that the war waged by this nefarious system against the vast majority of its population is not merely a matter of domestic concern and that any conflict which arises in South Africa cannot be described as a civil war.

The state of war which exists in South Africa is a war of national liberation, for self-determination on the basis of the Freedom Charter, whose adoption we are celebrating the 25th anniversary this year. It is, as Article 1 of Protocol I of 1977 recognises, an armed conflict in which peoples are fighting against 'colonial domination and alien occupation and against regimes in the exercise of their right to self-determination'.

In the past 12 years, since the Teheran conference on Human Rights, the development of international law under the auspices of the United Nations has led to a recognition that the concept of international armed conflict extends to cover wars of national liberation. The International Conference on the Reaffirmation and Development of International Humanitarian Law Applicable in Armed Conflicts, held in Geneva from 1974 to 1977, gave concrete expression to such a development.

We in the African National Congress of South Africa solemnly undertake to respect the Geneva Conventions and the additional Protocol I in so far as they are applicable to the struggle waged on behalf of the African National Congress by its combatants, Umkhonto we Sizwe.

In consequence, we demand that the South African regime stop treating our combatants as common criminals. The regime has no right to execute them as it did our noble patriot Solomon Mahlangu and as it would have in the case of James Mange if it had not been for the strength of international public opinion. It has no right to impose savage sentences of imprisonment, contrary to the rules and spirit of international law. There is, therefore, a heavy obligation and an imperative duty on States Parties to the Geneva Conventions to ensure that the South African regime observes the basic tenets of civilisation in its treatment of ANC prisoners of war. This is envisaged both in the Geneva Conventions (to which the South African regime is a party) and in Article 1(1) of the 1977 Protocol where States Parties to the Convention undertake 'to respect and to ensure respect for this Protocol in all circumstances'. It is therefore incumbent on South Africa's major trading partners to encourage the South African regime, whether or not the regime ratifies the Protocol, to stop committing war crimes by executing our combatants, torturing them and generally ill-treating them contrary to international law.

We in the African National Congress have taken the serious step of making a solemn Declaration at the headquarters of the ICRC this afternoon because we have for nearly 70 years respected humanitarian principles in the struggle. We have always defined the enemy in terms of a system of domination and not of a people or a race.

In contrast, the South African regime has displayed a shameless and ruthless disregard for all the norms of humanity.

In signing this Declaration, the African National Congress of South Africa solemnly affirms its adherence to the Geneva Conventions and to Protocol I of 1977. As we have done in the past, so shall we continue, consistently and unreservedly, to support, fight for and abide by the principles of international law. We shall do so in the consciousness of justice, of progress and peace. It is therefore a historic duty that I fulfil on behalf of the African National Congress by signing the following declaration:

It is the conviction of the African National Congress of South Africa that international rules protecting the dignity of human beings must be upheld at all times. Therefore, and for humanitarian reasons, the African National Congress of South Africa hereby declares that, in the conduct of the struggle against apartheid and racism and for self-determination in South Africa, it intends to respect and be guided by the general principles of international humanitarian law applicable in armed conflicts.

Wherever practically possible, the African National Congress of South Africa will endeavour to respect the rules of the four Geneva Conventions of 12 August 1949 for the victims of armed conflicts and the 1977 additional Protocol I relating to the protection of victims of international armed conflicts.

O R Tambo
President
ANC of South Africa

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