SUPERFLUOUS INJURY AND UNNECESSARY SUFFERING: NATIONAL LIBERATION AND THE LAWS OF WAR

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ABSTRACT

During the four years of preliminary meetings that led to the 1977 Protocols Additional I and II governing internal armed conflict, the prohibitions against superfluous injury and unnecessary suffering — two concepts that gird the regulation and moderation of war and limit the use of certain means and methods of warfare — were invoked as a means of calling into account the actions of imperial states. These meetings took place in the context of the conflicts in Southeast Asia, following the wars of decolonization and national liberation in the 1950s and 1960s. The participants in these meetings were freedom fighters and liberation movements who used this forum, which was open to them for the first time, to push for a wider understanding of the concepts of superfluous injury and unnecessary suffering. Their intention was to hold imperialism and imperial states accountable for suffering and injury beyond that of physical death or wounding and to recognize the violence of colonization and the...
social and cultural devastation it brought. These interventions were a critical attempt to broaden and deepen the meaning of the laws of war, to make them responsive to more than established sovereign state violence, and to ensure that they reflected the experience of colonization/decolonization. This episode matters because the prohibitions against unnecessary suffering and superfluous injury are two elements that detail the general prohibition first codified in 1907 Hague Convention IV, Article 22, namely that the “the right of belligerents to adopt means of injuring the enemy is not unlimited.” However, the history and formulation of these two concepts has yet to be fully explored, the meaning of each is debated, and taken together the two are among “the most unclear and controversial rules of warfare.”

Keywords: Laws of war; national liberation; self-determination; superfluous injury; imperialism; Rancière

INTRODUCTION

Every present moment is a tangle of emergent and residual forms. Cole (2015, p. 809)

In this article, I examine a fundamental dictate of international humanitarian law, or the laws of war, namely the prohibition against superfluous injury and unnecessary suffering. Accepted as both customary and positive law, the prohibition against superfluous injury and unnecessary suffering is codified in the 1977 Protocol Additional I to the Geneva Conventions of August 12, 1949, girds the regulation and moderation of war, and limits the use of certain means and methods of warfare. The laws of war govern the use of force in international politics and are the oldest system of international law informing and constituting relations among states and other entities. The laws of war are also a constellation of discourses and debates, practice and procedures, through which the legitimacy and meaning of violence takes shape and form and, as such, provide an extensive archive for considering the relations of history and theory, especially in regards to the formulation of what Ann Stoler calls “rubrics of rule” in colonial and imperial contexts (Stoler, 2009, p. 4).

I argue that it was during the four years of Diplomatic Conferences on the Reaffirmation and Development of International Humanitarian Law
Applicable in Armed Conflict which led to the 1977 Protocol Additional I that the interpretation of superfluous injury and unnecessary suffering were detailed and debated because they were invoked as a means for calling to account the actions of imperial states. This matters significantly because the prohibitions against unnecessary suffering and superfluous injury are two elements that detail the general prohibition first codified in 1907 Hague Convention IV, Article 22, namely that the “the right of belligerents to adopt means of injuring the enemy is not unlimited.” That is, there is a limit on the exercise of force in the pursuit of victory. However, the history and the formulation of these two concepts — superfluous injury and unnecessary suffering — has yet to be fully explored, the meaning of each is debated, and taken together the two are among “the most unclear and controversial rules of warfare” (Cassese, 2008, p. 193).

The Diplomatic Conferences took place from 1974 to 1977 at the time of conflicts in Southeast Asia, Latin and Central America, and Lusophone Africa, following the wars of decolonization and national liberation in the 1950s–1960s. The conferences were directly informed by the experiences of these wars and the diverse and contentious “transnational culture of Third World liberation” generated by such wars (Chamberlin, 2011, p. 5). Newly decolonized states and national liberation movements used the Diplomatic Conferences, which were officially open to them for the first time, to push for a larger conceptual understanding of superfluous injury and unnecessary suffering to hold imperialism and imperial states accountable for suffering and injury beyond that of physical death or wounding and to recognize the violence of colonization and the social and cultural destruction it brought.

While the origins of the prohibition were deeply rooted in and “generated by problems relating to colonial order,” its scope and substance were reconfigured by the theories, practices, and agents of anti-imperialism (Anghie, 2005, p. 6). This debate was part of a critical and complex attempt fostered by the “Third World” during the 1960s and 1970s to broaden and deepen the meaning of the laws of war, to make them more responsive to and reflective of the experiences of decolonization and national liberation, and to acknowledge the devastation wrought by imperialism and sanctioned by the law.¹

The participation of newly decolonized states and national liberation movements in the Diplomatic Conferences also illuminates a moment when, in Jacques Rancière’s words, “the natural order of domination is interrupted by the institution of a part of those who have no part” (Rancière, 1999, p. 11). Prior to this moment, in the codification and development of
international humanitarian law, colonized peoples appeared only as *subjects to* the laws of war as possessions of imperial states, a formal “juridically organized exclusion” constitutive of the laws of war itself (Chemillier-Gendreau, 1995, p. 153). The preparatory meetings were a place and a moment in which “a given order of domination and a regime of hierarchy … (was) … radically called in to question by the emergence of a political subject” (Chambers, 2013, p. 8). In this way, the preparatory conferences were indeed an event — “an occurrence that transcends or disrupts the normal course of affairs” — during which formerly colonized peoples previously objects of administration and regulation, and targets of violence and domination emerged as subjects of their own making (Totschnig, 2016, p. 1).

In approaching the development and debates over superfluous injury and unnecessary suffering in the codification of the laws of war, I situate my work in what is known as Third World Approaches to International Law (TWAIL). In his address to the American Society of International Law, in 2001, Professor Makau Mutua defined TWAIL as a “response to decolonization and the end of direct European colonial role over non-Europeans,” which actively recognizes the role of political events and organizations, specifically the Bandung Conference and the Group of 77, as its inspiration and heritage (Mutua, 2000b, p. 31). These scholars begin with the premise, as articulated by the Mohamed Bedjaoui in 1955, that classical international law is “a set of rules with a geographical bias (European law), a religious-ethical aspiration (Christian Law), an economic motivation (mercantilist), and political aim (imperialist)” (Mutua, 2000a, p. 849). Thus, TWAIL provides a critical theoretical purchase on the development of the concept of superfluous injury and unnecessary suffering recognizing “that colonialism is central to the formation of international law” (Anghie & Chimni, 2003, p. 79), which requires, in turn, making “the story of resistance an integral part of the narration of international law” (Chimni, 2006, p. 22). Although TWAIL scholars have generally not, with the notable exception of Anthony Anghie, turned their attention to international humanitarian law with the same focus as other elements of international law, this article contributes to the “vibrant ongoing debate around questions of colonial history, power, identity and difference, and what these mean for international law” (Gathii, 2011, p. 27).

The article proceeds in three parts. I first offer a brief overview of the development of the concepts now known as superfluous injury and unnecessary suffering in the laws of war, highlighting the 1899 and 1907 Hague Conventions in which the prohibition was first codified. I then turn to its subsequent rearticulation in the 1977 Protocols Additional to the 1949
Geneva Conventions, setting forth how the debate over its definition was marked by the participation of newly decolonized states and national liberation movements. Claiming equality of presence, these participants insisted the meaning of superfluous injury and unnecessary suffering, address the effects of imperialism and the extent of its violence. Finally, while the successes of newly decolonized states and national liberation movements in altering other elements of the positive laws of war, notably expanding the definition of combatant and defining the scope of its application (in Protocol I), may appear more immediately influential, I argue that attention to superfluous injury and unnecessary suffering can help deepen our understanding of the complexity of their concerns and the breadth of their political agency, while also offering a resource for responding to injury and suffering in contemporary wars.³

HISTORY OF THE CONCEPT

In the histories of the laws of war, the concepts of superfluous injury and unnecessary suffering evolve from restrictions on reasons to go to war (*ius ad bello*) and restrictions on the use of means and methods of warfare (*ius in bello*) that would indiscriminately and unduly cause more harm than necessary to accomplish the purpose of war — to right a wrong and to render the enemy unable to fight. In his work on moderation in regard to the use of force, the 17th-century publicist Hugo Grotius commented, “all Combats which are not for the obtaining of Right or concluding a war, but merely for a vain ostentation of strength ... are wholly repugnant to the duty of a Christian and Humanity itself” (Grotius & Tuck, 2005, p. 1456). According to the 18th-century jurist Emer de Vattel, who was also referring to reasons for war, “those who run to arms without necessity are the scourges of the human race, barbarians, enemies to society and rebellious violators of the laws of nature, or rather of the law of the common father of mankind” (Vattel & Chitty, 2011, p. 288). Further, he continues, the use of violence in war should be as restrained as is possible for any use that is in excess transgresses the laws of humanity for although necessity justifies going to war, “Let our valour preserve itself from every stain of cruelty, and the lustre of victory will not be tarnished by inhuman and brutal actions” (Vattel & Chitty, 2011, p. 362). Although these early scholars disagreed in significant ways as to the precise relationship between *ius ad bello* and *ius in bello*, each held the unfettered resort to and the use of force
was contrary to particular hierarchies of standards homologous with Christianity, humanity, and civilization (cf. Boucher, 2012). Temperance in war was taken to be a hallmark of civilization and excess one of barbarism and inhumanity (Gong, 1984; Kinsella, 2005, 2011; Lorca, 2010). The St. Petersburg Declaration of 1868, which outlawed inflammable or explosive projectiles of less than 400 g, encapsulated this general sentiment stating:

> Considering that the progress of civilization should have the effect of alleviating as much as possible the calamities of war ... the only legitimate object ... is to weaken the military forces of the enemy ... that this object would be exceeded by the employment of arms which uselessly aggravate the sufferings of disabled men, or render their death inevitable ... the employment of such arms would, therefore, be contrary to the laws of humanity.

Yet, discourses of Christianity, civilization, and humanity equally set limits on to whom and among whom the restraints apply, act to justify unfettered violence against those excluded and determine who is able to formulate the scope and reach of laws of war (Anghie, 2005; Kinsella, 2011; Pemberton, 2013). It has been well established that the histories of the laws of war are inextricably intertwined with histories of imperialism and colonization, as the laws of war were conceived of within what Rey Chow refers to as a Eurocentric “hierarchizing frame of comparison,” which was, in turn, reflected and institutionalized in its regulations (Chow, 2006, pp. 80–81; Jouannet, 2007; Lorca, 2010; Pitts, 2012). The discussions and debates, primarily during the 1899 Hague Conference, reveal the manner in which this occurred, while also illuminating the complexities of its occurrence. For while the laws of war claimed a putatively universal reach, historically, constitutive differences always allowed distinctions to be defended.

The 1899 and 1907 Hague Conferences codified the prohibition against superfluous injury and unnecessary suffering in the Regulations annexed to the 1907 Hague Convention IV, Article 22: “the right of belligerents to adopt means of injuring the enemy is not unlimited” and in Article 23(e): “it is forbidden to employ arms, projectiles, or material of a nature to cause unnecessary suffering.” In the meetings of those who gathered to formulate the 1899 and 1907 Hague Conventions, there was a clear demarcation between strategies and weapons to be allowed in wars against the civilized and those in wars against the uncivilized. Significantly, representation at both Conferences was limited to recognized sovereign states at the time (1908). Thus, while Persia, China, and Siam were in attendance in both 1899 and 1907 and, in 1907, 19 Latin American states attended, in 1899
only Mexico attended, and no African states were independently represented at either Conference. Accordingly, even with an increase in representation from 26 states in 1899 — of which only six were non-European and none of the six sovereign African states were invited — to 43 in 1907, the states in attendance were almost all the major powers who still possessed colonies or territories, and Africa was entirely excluded (Eyffinger, 2008).

During the two conferences, the means and methods of war held to cause superfluous injury and unnecessary suffering were evaluated according to the identity of those who were targeted. The most infamous example of this is the debate on the use of the dum-dum bullet at the 1899 Conference, a weapon whose use would exceed “justifiable limits” and result in “useless cruelty” for it did more harm than was necessary to render its object hors de combat (Hague-Peace-Conference_1899.pdf, pp. 79, 82). In an oft quoted statement, the delegate from England “demand(ed) the liberty of employing projectiles of sufficient efficacy against savage races” (p. 287)." Further, any expectation for moderation “as regards to wars with savage peoples … will be solely to the detriment of civilized nations” (p. 295). For, as another delegate continued, it would place the civilized in a “dangerous situation in a war with less civilized nations or savage tribes” (p. 293). The Russian delegate, somewhat bitingly, reassured those so concerned that even in “the St. Petersburg Declaration of 1868, the contracting Powers decided not to employ these bullets in wars among themselves. It is evident that there is a gap in the St. Petersburg Declaration, a gap which enables not only dum-dum bullets but even explosive bullets to be used against savages” (italics added, p. 287). In other words, even as he argued “it is not proper to make distinction between civilized and savage tribes,” and “both are men who deserve the same treatment,” he was well aware that the development of the laws of war was predicated upon (and produced) such a distinction and differential treatment (83). His words brought to the fore that even as the entire conference was permeated — from invitation to participation — with discourses and differences of civilization and barbarism, not all participants held that it was an equally defensible demarcation for assessing harm of particular weapons. However, in no case was the comparison itself deemed wholly irrelevant or false. Rather, these statements convey a profound “imperial ambivalence” and an epistemic uncertainty as to what precisely was the substance of the difference (Berman, 2011, p. 411).

For example, the President of the conference stated that, “There can be no distinction established between the projectiles permitted and the projectiles prohibited according to the enemies against which they fight even in case of savages” (italics added, p. 287). For one, such a distinction would
“necessarily induce complications of equipment” as militaries would have to be prepared with two separate arsenals — to “have two kinds of projectiles, one for savages and the other for civilized peoples would be complicating the armament” (p. 343). More disquietingly, such complications of equipment exposed the supposed naturalness of order as highly contingent and easily mistaken. The preservation of the distinction between civilized and savage would be threatened if, as a delegate extemporized, one contemplated “the case of soldiers stationed outside of Europe and armed with bullets for use against savages, who would be called upon to fight against the regular troops of a civilized nation” (p. 343). In other words, to contemplate the possibility, much less to risk, that the civilized could or would use the same bullets against their brethren as against savages was by far too great to accept. It was too great to accept not simply because it would complicate the armament, but also because it would render the ostensibly civilized savages in both treatment and behavior, contaminating and complicating the putative (and, at that point, supposedly inherent and characterological) hierarchy of comparison between the two.

Moreover, the measurement of needlessly cruel would always have to be evaluated against the efficiency of the weapon, and the caliber of the enemy. As the delegate from the United States noted that while having a “keen desire” to “render war more humane” it would be foolish to give up a means of warfare that they might be later “usefully employed” (Cassese, 2008, pp. 222–224, 296). Considering that the United States was just beginning to face a colonial “insurrection” in the Philippines, his statement takes on greater significance, as does the refusal of the United States and Britain to sign on to the prohibition (for further discussion of the futility of prohibitions, cf Hay & Root, 1913). In the end, the Hague Conferences embodied the vision of its preamble: an “empire of law,” confirming the “general and profound sentiment of the solidarity which more and more animates the civilized world,” both proscribing and defining a set of practices said to be universal, but rooted in a deeply particular collective — “that charmed circle … which, by grace of race, religion and, more to the point, economic and military preponderance brazenly predicated itself as representing ‘civilization’” (Eyffinger, 2008, p. 8; Hicks, 1908).

The principle elaborated in the Hague Conventions — “[T]he right of belligerents to adopt means of injuring the enemy is not unlimited” — was all but falsified during the colonial and interstate wars that followed, especially with the use of chemical, biological, incendiary, and nuclear weapons in violation of specific bans upon them (e.g., Protocol for the Prohibition of the Use of Asphyxiating, Poisonous, or Other Gases, and of Bacteriological
Methods of Warfare, 1925). Weapon development, and superfluous injury and unnecessary suffering were inextricably connected and, consequently, efforts to further address inevitably stalled in debates over state security and sovereignty, and the configuration of threat (Levie, 1981). Further, at the next major opportunity to codify the laws of war, during the Diplomatic Conferences on the four 1949 Geneva Conventions, the nuclear geopolitics of the Cold War hardened the insistence that any discussion of harm from particular weapons be reserved for law making in regards to the conduct of hostilities (colloquially known as Hague law) and not included in law making for the protections of victims of war (colloquially known as Geneva Law) (Barak, 2010; Baxter, 1980). This made any further codification of superfluous injury and unnecessary suffering all but impossible, with the result that the updated IV Geneva Conventions “said little about the precautions and limits belligerents had to observe … while planning and deploying armed attack or using certain weapons with ‘uncontrollable effects’” (Mantilla, 2013, p. 163). It was not until the Diplomatic Conferences for the 1977 Protocols that superfluous injury and unnecessary suffering became, almost a century later, a subject of renewed debate.

NATIONAL LIBERATION MOVEMENTS

The decades preceding the Diplomatic Conferences, held from 1974 to 1977, were rife with wars of decolonization and national liberation, and representatives from national liberation movements and newly decolonized states skillfully utilized the United Nations to stage their struggles, articulating the essential importance of self-determination and respect for human rights and testifying to the legitimacy of their claims. The membership of the United Nations had changed dramatically from its founding and by the 1960s almost half of its members were newly decolonized states. This transformation of international politics was both a consequence of and impetus for the opprobrium with which efforts to prevent self-determination and to maintain colonial rule were treated. Along with the 1960 Declaration on the Granting of Independence to Colonial Countries and Peoples and the 1970 Declaration on Principles of International Law Concerning Friendly Relations and Cooperation Among States – the United Nations General Assembly passed a bold series of resolutions declaiming against racist and colonial regimes – “ruthless and blatant colonialist and racialist repression” – directly linking international peace and security, and the
flourishing of human rights, to the abolishment of apartheid and colonialism (G.A. Resolution 2908 [XXVII], 1972, p. 2). The International Conference on Human Rights, held in Tehran in 1968, adopted a Declaration on Human Rights in Armed Conflict which drew especial attention to this link, stating “peace is the underlying condition for the full observance of human rights and war is their negation,” and noted that the Hague Conventions, prohibitions on means and methods of war were sorely outdated.

More specifically, the wars of decolonization and national liberation were internal wars, and the manner in which they were fought underscored the startling lack of laws of war pertaining directly to internal armed conflicts, while the use of weapons — nuclear to napalm — underscored the weakness of the prohibitions on superfluous injury and unnecessary suffering. This was a concern that the International Committee of the Red Cross (ICRC) had expressed for years, leading to a three-year effort to formulate a protocol, “Draft Rules for the Limitation of the Dangers Incurred by the Civilian Population in Time of War” (1956), which sought to identify “Prohibited Methods of Warfare” (Article 14). However, due to their explicit mention of nuclear weapons in the context of the Cold War, the Draft Rules were ignored, as was the ICRC’s 1967 effort to encourage states to discuss “new weapons [such] as napalm and high velocity rockets” as inflicting “needless suffering” (Kalshoven, 1985, p. 79). The ICRC’s efforts to address this lacuna were facilitated by the International Year for Human Rights, its Tehran Declaration, and the adoption of a resolution by the General Assembly inviting the Secretary General to study what would be necessary, feasible, and desirable to update the laws of war, specifically including “the prohibition and limitation on the use of certain methods and means of warfare” (UNGA Resolution 2444 (XXIII), December 16, 1968). The Secretary General produced three detailed reports which were shared with the General Assembly. While the ICRC had already sought to gather expert opinions on “prohibition of ‘non-directed’ weapons or weapons causing unnecessary suffering,” such as napalm, and fragmentation bombs, it was the Secretary General’s report on the precise effects of the use of napalm and other incendiary weapons on “human beings and the living environment” which informed its description of the “cruel and barbarous war” waged in Vietnam, and other atrocities attributed to “imperialist” states committing “criminal, inhuman acts” (Napalm and Other Incendiary Weapons and All Aspects of their Possible Use, UN Doc. A/8303, October 9, 1972). The General Assembly kept the issue of armed conflict on its agenda in its session from 1968 to 1973 and encouraged the Secretary General to consult with the ICRC at every available turn.
National liberation movements, newly decolonized states and their supporters, whose histories of organization and efforts can be traced in part to the Bandung Conference of 1955, insisted on the recognition of human rights in armed conflicts, prohibitions on certain weapons, and the rewriting of laws of armed conflict because each was central to the defense and pursuit of self-determination, understood not only in legal terms but also in terms of personhood. The history is too complex and rich to be more than acknowledged here, but two examples illuminate the extent to which newly decolonized states and national liberation movements networked and negotiated a collective (although not wholly consensual) position which informed the tenor and framing of these changes.

First, national liberation movements and newly decolonized states had already been actively organizing independently of the United Nations, developing comprehensive programs of action and consolidating strategies for formal recognition through solidarity conferences (e.g., The Non-Alignment Movement and the Conferences on Afro Asian Peoples) and the establishment of permanent Secretariats (Plummer, 2013, pp. 20, 106). In an effort to expand their campaigns and to deepen the “transnational idiom” already in circulation, the historic first conference of “African, Asian, and Latin American peoples,” the Tricontinental Conference, was held in Havana, Cuba in 1966 (Chakraborty, 2016, p. 110). This deployment of the “name of the people and of the space of the grievance to which that name gives substance,” actively sought to disrupt and undo “the supposed naturalness of orders,” in which colonized peoples were subject to violent prior disregard and dismissal as actors in and of their own right (Rancière, 1995, pp. 33, 98).

This particular conference drew luminaries such as Fidel Castro, Salvador Allende, and Amilcar Cabral, and was attended by more than 500 representatives of 82 countries representing independent governments, guerrilla groups, and national liberation movements. Dedicated to building transnational solidarity among Afro-Asian-Latin American movements, the conference explicitly articulated a common political, economic, and social program of liberation and support for independence and self-determination. Its objective was to provide an ongoing forum, through yearly gatherings and national organizations, to develop and refine a global strategy informed by each national liberation movement’s successes — an “internationalist nationalism” (Prashad, 2008, p. 12). In this regard, there were two simultaneous efforts at work, to not only transform institutions of rule, such as the United Nations and international law, but also to claim their right and recognition to do so — to act and speak — independent of, and in spite of, such distributions of rule."
Of particular interest, considering his role as the founder and leader of a national liberation movement, the African Party for the Liberation of Guinea and Cape Verde and as a consummate diplomat at the United Nations and other gatherings, is Amilcar Cabral — one of “Africa’s most significant” revolutionaries (Chilcote, 1984, p. 3; Westad, 2007, p. 211). His opening speech at the Conference, entitled “The weapon of theory,” was a highly complex analysis of the rise of and need for national liberation, which exhorted the delegates to continue to conceive of national liberation as both an internal process (of the self) as well as an external process (of the collective). Situated in, but not beholden to, Marxist theories of production, Cabral connected armed struggle to the recuperation of national culture, identity, and self-knowledge for, as he extrapolated in his other writings, the rebirth of historical and contemporary identities of the peoples is a necessary element in restructuring the economic and the political. Imperialism destroys both the existence of and the capacity for self and collective knowledge, which is why national liberation was not “only a cultural fact, it is also a factor of culture,” and national liberation must mean “regaining not only one’s historical personality as a free people but also one’s own initiative as a maker of history” (Chabal, 1981; McCulloch, 1981, p. 44). The harm done by colonization and imperialism, as all the resolutions of the conference iterated, was comprehensive in scope — underdevelopment was but an “ill-disguised euphemism” for the “concrete and dramatic” destruction of a people (Organization of American States, 1966a, 1966b, p. 33). Drawing attention to the irony of a civilization which was built upon their oppression and exclusion, he queried what was a more “striking manifestation of civilization and culture if not that shown by a people which takes up arms to defend its right to life, to progress, to work and to happiness?” (Cabral, 1970, p. 65).

Consequently, as the General Declaration of the conference asserted, “the right of the peoples to obtain their political, economic and social liberation” is to be defended by “any means necessary” until achieved (Organization of American States, 1966a, 1966b, p. 39). Singled out for consistent condemnation was US action in Vietnam, not as a discrete case of imperialist aggression but as the most “recent manifestation” of it, while nuclear arms and napalm were identified as the most barbarous of weapons (Organization of American States, 1966a, 1966b, p. 116; Prashad, 2008). The work of the conference was substantial — deeply contentious, but conducted in common — as it began a process of strengthening and expanding the relationships, regional and otherwise, and the “transnational body of work” of Third World liberation.10
Second, these networks helped to inform the tack taken within the United Nations, with General Assembly Resolutions on Friendly Relations and the New International Economic Order attributed to their advocacy, and insisted that napalm remain under debate in the General Assembly. Moreover, documenting a comprehensive understanding of the harm done by imperialism, these actors collected evidence of a systematic injustice incommensurable with the essential equality of all states and peoples. For example, in 1973, at the International Conference of Experts in Support of the Victims of Colonialism and Apartheid in Southern Africa, the United Nations Special Committee on Decolonization organized a meeting of the leaders of national governments, inter- and nongovernmental organizations, and regional national liberation movements to develop a comprehensive economic, political, and social agenda for action which acknowledged the extensive harm constituted by the very system of states and rule said to prevent it. Within the United Nations, this same committee also allowed “representatives of national liberation movements in Africa (as recognized by the O.A.U.) to participate in their meetings as observers whenever their respective territories are being considered,” which gave status to those movements and leaders and, eventually, led to the granting of formal UN observer status to national liberation groups, such as the PLO, which were recognized by the League of Arab states and/or Organization of African Unity (El-Ayouty, 1972; Mittelman, 1976, p. 2). The fight for acknowledgment, of both harm and of agency, was not simply a request for an allocation of, or assimilation to, rule, but also a profound and transformative demand for recognition. As Cabral underscored, “to co-exist one must first of all exist,” which meant asserting the right and presence to do so (Prashad, 2008, p. 103).

Assassinated on the eve of independence in January 1973, Cabral did not live to witness official recognition of his country, but the opening act of the first Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law Applicable in Armed Conflict (Diplomatic Conference) was to issue a formal invitation to the newly independent Guinea Bissau to participate fully. And, out of the 11 national liberation movements invited to the conference, more than half of those that had not yet achieved independence had been in Havana in 1966. The complexity of the approaches to national liberation, constructed “outside the state but within empire,” and the comprehensive harm of imperialism, both fundamental to the transnational idiom of national liberation, continued in the conference debates (quoted in Plummer, 2013, p. 23).
DIPLOMATIC CONFERENCES

At the start of the Diplomatic Conferences in 1974, the ICRC was under the illusion that since the draft protocols had already been circulated among states, experts, and organizations, the actual Diplomatic Conferences would proceed rather smoothly. Originally conceived of as only one meeting to last six weeks, the disagreements and discussion over some of the formal procedure as well as substantive issues derailed this assumption. For one, newly decolonized states and others wished that the formal offices of representation within the Conference be distributed representatively according to region and, for another, the question of participation by states and others who had not received an official invitation to attend by the Swiss government loomed large. Thus, the Conference “opened with a bang” as the President of Islamic Republic of Mauritania declaimed his support for national liberation movements and excoriated the Zionists and imperialists who sought to suppress their claims (Baxter, 1975, p. 9). This “set the tone of the conference” and, although the United States and other Western countries sought to block it, it was agreed that national liberation movements recognized by the Organization of African Unity and the Arab League be invited to participate in the work of the Conference (Aldrich, 1977; Baxter, 1975, p. 9). While national liberation movements were not permitted to formally vote, their contributions had the authority and force of official Conference documents (RC-records_Vol-1.pdf, p. 55). Moreover, they were invited to sign the Final Act of the Conference, on June 10, 1977, an indication of the renegotiation and transformation of the politics of law making over the three years of meetings (although Israel refused to sign the Final Act, as the PLO had done so).

Prior to the start of the Diplomatic Conference, the ICRC held two preparatory meetings, the Conferences of Government Experts, in 1971 and in 1972. The first conference was attended by 69 experts and the second by 77, and representatives from the Secretary General participated in both. In fact, the second session was expanded to include all signatories to the 1949 Geneva Conventions, after participants at the first conference expressed concern at the lack of representation from the Third World. At both conferences, the United States, the Soviets, and other Western states sought to remove the questions of weapons from debate, insisting that they lay outside humanitarian law and should be considered in a disarmament forum. It was finally agreed after the second conference of the Government Experts, where the ICRC was further tasked with hosting experts on
“the problem of the use of certain conventional weapons that may cause unnecessary suffering or have indiscriminate effects,” that the ICRC could continue to address the issue of weapons without prejudicing the work on international humanitarian law. This led to yet two more separate meetings of Conference of Government Experts on the Use of Certain Conventional Weapon, the first in Lucerne (1974), in which 49 states and six national liberation movements participated, and the second in Lugano (1976) in which 43 states and no national liberation movements participated. As one expert to the Lugano conference reminded the participants, “the Third World, although less well represented at this session than at the previous one … expected positive results of this Conference,” while, notwithstanding their reduced numbers, those who were present “took a most active part in the proceedings” (RC-conf-experts-1976.pdf, p. 5, Kalshoven, 2007, p. 172).

Further, during the first session of the Diplomatic Conference, after a tense vote, Sweden along with Egypt, Mexico, Norway, Sudan, Switzerland, and Yugoslavia formed the Ad Hoc Committee on Conventional Weapons (with occasional participation by other states, such as Nigeria, Sudan, Algeria, Lebanon, Mauritania, Venezuela, and Mali), which held parallel discussions, sharing delegates with and relying consistently on the Government Experts’ reports.

In many ways, the contour of the debate outlined in 1899 at the Hague – the implementation of the prohibition of a weapon as potentially dependent upon the identity of the enemy, the hesitation to outlaw weapons that may of particular use to particular nations in particular wars, the belief that few weapons were inherently indiscriminate, a debate over the true point of international humanitarian law (to regulate war or to humanize it) and the split between powerful nations and less powerful nations in their support for outright bans - was found in 1977. Consequently, as put by the Soviet delegate (in agreement with the United States and France), “it was impossible to approach the matter from a purely humanitarian point of view leaving aside political and military considerations and matters of State security” (RC-records_Vol-7.pdf, p. 19). In response, the delegate from Norway assured him that the “balance of terror” was not going to be directly affected by the work of the Conference, referring not so obliquely to nuclear weapons and the Cold War, while other states (Tunisia, Cameroon, and Sudan and others) insisted upon the complete competence of the Diplomatic Conferences and the Experts Meetings to debate prohibitions on weapons of a nature to cause superfluous injury or unnecessary suffering. To argue against such competence was to “mark a distinction between the powerful States...
and those who believed in humanitarian law” (RC-records_Vol-7.pdf, p. 31). Or, as put more directly by the delegate from Mozambique,

> With these examples before us of the terrible destruction suffered by the peoples of Indochina and those who were subjected to fascist colonial domination; we can see the urgent need to put an end to the arms race, and particularly the race in arms whose use is a crime against humanity. Unfortunately, we note that whenever we wish to crystal-
> lize a known principle which has already been adopted, there are countries which vigorously object, saying that we are straying outside the confines of humanitarian law. (RC-records_Vol-7.pdf, p. 45)

The first meeting of the Ad Hoc Committee was described as a debate:

> between the ‘haves’ and the ‘have-nots’. Its own power of high military technology, the Soviet Union could not welcome placing restraints on weapons, but at the same time as the steadfast ally of Third World states, it found it difficult to take a hard line against the technologically-deprived developing states. (Baxter, 1977, p. 51)

The Soviet delegate was worried that any prohibitions on weapons might also put smaller nations at a disadvantage because “a small country would become unable to defend its territory and would be in a position of weakness vis-à-vis large countries which produced costlier and more efficient weapons” (Cassese, 1976, p. 162). This debate was to be rehearsed throughout the entire conference, with Sweden leading the effort to address conventional weapons and the Soviets steadily entrenched as the main vocal opposition to prohibitions on weapons. Commenting on the first three sessions, a US observer noted the “Soviets appear as the ‘bad guys’, and in the process the United States is relieved of the need to take a stand on napalm” and other weapons (Forsythe, 1977, p. 137; Parks, 2006). Throughout both the Diplomatic Conferences and the Expert meetings, napalm and other incendiary weapons were described as a particular “abhorrence” which should be outlawed as affronts to the “public conscience” and, before the Diplomatic Conferences concluded, the Non-Aligned movement had specifically requested that all its members pursue its abolition (RC-conf-experts-1974.pdf, p. 12).

It was this attitude that the United States, in particular, was keen to undermine. According to a diplomatic transmission from its delegate, “the United States had to approach this Conference with caution and concern … we had seen in other contexts the risk that conferences of one hundred or more countries would be dominated by a majority of developing countries, a majority which all too often seems to be led by radical states bearing grudges against the wealthy countries in general and against the United States in particular” (Boyd, 1978). At various points in the
discussions, he encouraged the delegates to keep an open mind about the viability of weapons, and expressed his deep concern that a conclusion had already been reached on which weapons were to be outlawed.

However similar the contours of the debate might be to that of the Hague, they should not be overdrawn. For what is significantly different is who participated in these debates and the context in which it took place. First, it was the largest and most diverse conference on the laws of war. There were some 155 state delegations as well as 11 national liberation movements, and 51 intergovernmental organizations. Out of those 155 states, approximately 40 had recently achieved independence, including those like Mozambique who gained sovereignty during the Diplomatic Conferences: “Yesterday, we were freedom fighters; today, we are the representatives of a sovereign State” (RC-records_Vol-7.pdf, p. 277). The degree of transformation in structure and authority in the international order was marked and ongoing. Second, there was a concerted attempt to clarify the entirely “too vague” provision of Article 23(e) of the 1907 Hague Regulations (Kalshoven, 2011, p. 30). Third, and most strikingly, this attempt was led by, and with recognition of, those most injured by wars of imperialism. After all, “they were the people who really had first-hand knowledge, although mostly as victims, of the effects of modern conventional weaponry” (Kalshoven, 2007, p. 158). Delegates from newly decolonized states, most often led by the Democratic Republic of Vietnam, insisted on the “atrocious reality” of what they had experienced as balancing or even contradicting, the work of “certain experts,” who wished to pontificate upon the injuries of war (RC-records_Vol-16.pdf, p. 108). The delegate from Mozambique foregrounded the disjuncture, noting that “while this conference is meeting here, the people of Mozambique are being bombed by illegal and racist regimes … using napalm and other materials causing superfluous injury” (RC-records_Vol-6.pdf, p. 303). In response to an impassioned description of the harms suffered by the Vietnamese people, the delegate from Mongolia praised the delegate from Vietnam’s intervention, stating that it was “far closer to the realities of life than were the theories of experts and it made an indispensable contribution to humanitarian law” (Levie, 1981, p. 261). Unlike earlier conferences, those subjects of and to the laws of war were also to be its creators and its agents, marshaling an expertise of experience.

Finally, the presumption of the inevitability or necessity of imperial war – to bring civilization to the savages – was overturned, with newly independent states and national liberation movements claiming that these wars – colonial, racist, imperialist – betrayed the humanitarian promise of
the laws of war upon which civilization was said to depend, and revealed
the savagery of the imperialists. As put by the delegate from Nigeria, “The
wars of liberation now being waged in Africa, the Middle East, Southeast
Asia and elsewhere were being fought with conventional weapons, with
the weaker side, particularly the freedom fighters, as the exclusive targets of
lethal and indiscriminate weapons” (RC-records_Vol-16.pdf, p. 19). Thus,
it was those states that would reduce “human suffering” which would bear
the mantle of “civilized” (RC-records_Vol-16.pdf, pp. 26, 28, 147).

Although the delegates disagreed on a large number of issues, in the Ad
Hoc Committee and the Experts meetings the delegates were able to agree
more or less to the Swedish proposal that the “philosophy which underlay
the concept ‘unnecessary suffering’ was that, if two means of weakening
the adversary’s military forces were roughly equivalent for the purpose of
placing an adversary hors de combat; the less injurious must be chosen”
(RC-records_Vol-16.pdf, p. 16). However, even once this agreement was
reached, its reasoning still failed to confront these questions: What was less
injurious said to be? What was superfluous injury or unnecessary suffering?
How is, and who is, one to distinguish and measure expected or necessary
suffering and injury against excessive or unnecessary suffering and injury?

The difficulties of answering such questions were acknowledged from
the start, but the parameters of inquiry were restricted by its relationship to
that of military necessity.

There was widespread agreement among the experts that this involved some sort of
equation between … the degree of injury suffered inflicted and … the degree of neces-
sity underlying the choice of a particular weapon (T)he equation would often be a
particularly difficult one, as neither side … could easily be reduced to precise
figures … and were so different that they were hard to compare. (RC-conf-experts-
1974.pdf, p. 9)

The challenges of comparison are made all the more difficult by the
inherent privileging of military necessity — “a balancing … between the
force dictated by military necessity to achieve a legitimate objective vis a
vis injury that may be considered superfluous to the achievement of the
stated or intended objective (in other words, whether the suffering caused is
out of proportion to the military advantage to be gained)” — which rigs
any evaluation in its favor, and limits its scope (Parks, 1997, p. 18). Only a
few experts argued that the place to begin was not with a comparison,
or a balancing test, but with an absolute claim: “all suffering caused by
war was, in a sense, unnecessary” and “all weapons were cruel”
In an attempt to answer these questions in more “objective” terms, there were hours and days spent on the quantification of suffering in both the Experts’ meetings and in the Ad Hoc Committee. In the 1974 Lugano Conference, possible indices of degree of pain, duration of effect, and the number of casualties were proposed (and scientific, medical and humanitarian experts debated the terms and metrics of the three). However, it was soon realized that such measurements were inherently subjective and complexly related, with extreme variance across individuals more than likely, and the vulnerability of individuals connected to their status (rich, poor, rural, urban), age, health, etc. Thus, there were no truly objective or accurately measurable indices that could be created for international use. Further, the sociopsychological response was a factor in all and “cannot reasonably be quantified” (RC-Weapons.pdf, p. 27). Nevertheless, during the Diplomatic Conferences there were often slightly absurd exchanges, as when the delegates from Sweden and the United States traded opinions as to whether death from fragmentation or blasts was worse physically and psychologically, and lamented that “an unsatisfactory feature of the experiments carried out at the Goteberg Symposium had been that the pigs used had wound channels” which were insufficient for evaluation (RC-records_Vol-16.pdf, pp. 311, 333–335, 356). Third World delegates also drew attention to the inherent subjectivity in the use of the terms superfluous injury and unnecessary suffering, for they “all were too manipulable and could potentially justify genocide, as the irony was technical advances in certain imperialist countries enabled them to justify using arms which were said to cause less unnecessary suffering by killing more quickly” (RC-records_Vol-4, p. 184). Further, as the delegate from the Democratic Republic of Vietnam explained: “to prohibit or restrict certain categories of weapons would give the impression that they alone were dangerous. In fact, by the large-scale use of permissible weapons, or even of industrial equipment such as the bulldozers used in Vietnam, the aggressor could produce effects that were just as dangerous and cruel, if not more so” (RC-records_Vol-7.pdf, p. 345).

Over a period of meetings, in which the technical data “proved to be debatable and frequently contradictory,” and with growing acceptance of the impossibility (due to the geopolitics of the time) of identifying more weapons to be prohibited, much less attempting to quantify the meaning of superfluous injury and unnecessary suffering, the delegates returned to methods of war to provide conceptual purchase (RC-records_Vol-7.pdf, p. 46; RC-conf-experts-1974.pdf, p. 10).14 A focus on methods would highlight the use to which a weapon is put as potentially unlawful, irrespective of
the lawfulness of the weapon and its properties. This shift in emphasis, from means to method, also reflected the continuing influence of newly independent states and national liberation movements who insisted upon the specificity of the wars against them — those “methods of combat” that were purposely employed by “colonial and racist regimes to crush liberation movements” (Levie, 1981, p. 186). Or, as the delegate from Algeria suggested, those “used in highly uneven conflicts” (RC-records_Vol-16.pdf, p. 156). The delegate from the Democratic Republic of Korea went so far as to ask for a prohibition against the “cruel means of warfare” in use in the “colonies,” while a few African countries wished to approach the debates about methods even more specifically with a “regional” focus, highlighting apartheid as “typical of imperialism” (Organization of American States, 1966a, 1966b, p. 124; RC-records_Vol-7.pdf, p. 41; RC-records_Vol-16.pdf, p. 21). For these delegates, the methods to be prohibited were those capable of “destroying means of life” (RC-records_Vol-14.pdf, p. 241).

Means of life, in this context, pushed the conversation to encompass the entire population and its subsistence, not simply those who were specifically targeted. For example, the delegate from Democratic Republic of Vietnam wanted the specific method of pacification to be outlawed, because its purpose was “to subdue an entire people” (RC-records_Vol-14.pdf, p. 236). Third World delegates, supported by the ICRC, insisted upon broadening the discussion beyond individual physical and psychological suffering, to include harm done to a people and to the environment, namely injury and suffering should also be conceptualized in terms of “genocide, biocide, and ecocide” (RC-conf-experts-1974.pdf, p. 13). Unsurprisingly, the emphasis on damage to the environment as fundamentally damaging to ways of life was iterated frequently in regards to the effects of defoliation and the use of herbicides for which “Vietnam had become a testing ground” (Aldrich, 1985; RC-records_Vol-16.pdf, p. 344; Sandoz, 1994, p. 93). Introduced also throughout these debates was the temporality of harm with the insistence that it be evaluated according to scope (widespread), degree (severe), and duration (long lasting) (see Protocol I, Article 35(3)). As Cabral and others had argued, the harm was comprehensive, generational, historical, and imperial.

**CONCLUSION**

Notwithstanding the success of national liberation movements, newly de-colonized states, and their supporters in effecting great changes in the laws of
war in other areas, the work of the two Experts Meetings, the Ad Hoc Committee, and the Diplomatic Conference on the question of superfluous injury and unnecessary suffering was deemed to have been less than satisfactory by many of the participants (Kinsella, 2011; Mantilla, 2013). The blame was attributed to the politics of national security, the unwillingness of States to compromise, and the radical inequalities of power and economics of weapon development and implementation. The difficulties in defining the concepts were also caught in the geopolitics of the time, in which “there was also an implied linkage between advanced technology in weapons with increased inhumanity: a notion which had considerable appeal to certain developing States and groups involved in guerrilla war-fare and wars of national liberation,” but which did little to promote consensus among all states (Mathews, 2001, p. 995). Additionally, national liberation movements and newly decolonized states were hobbled by a lack of expertise in international humanitarian law and, while certainly skilled at UN diplomacy, these movements and states were less fluent in (and well-funded for) the process of international treaty making (Adler-Nissen & Pouliot, 2014; Forsythe, 1975, p. 82). For all these reasons, as Richard Baxter put it at the time, “many delegates from developing countries are thus still engaged in reading themselves into this body of law” (Baxter, 2013, p. 252).

And, yet, what Baxter identifies — the very act of reading themselves into this body of law — calls any conclusion as to simple success or failure into question for this act is itself emancipatory. By reading themselves into the body of law, newly decolonized states and national liberation movements were not seeking to adapt to it. Rather, they asserted themselves as authors and “maker(s) of history,” projecting their self-constitutive understanding of liberation to demand that the laws of war, predicated on their very exclusion and degradation, instead “protect the overall physical and moral well-being of human beings and to create all the legal conditions necessary to enable them fully to develop their personality, even under the difficult conditions of war, when weapons are being used to destroy them” (Democratic Republic of Vietnam, RC-records_Vol-4, p. 178; McCulloch, 1981, p. 44).

The quantification of harm, which began in totally technical, limited, and individual terms was expanded and deepened to consider the complexity and nuances of suffering and injury encompassing entire ways of life. Importantly, this was not acceptance of or an identification as pure victims of imperialism, but an effort to disrupt the “distribution of the sensible” and make visible and make evident the suffering and injuries of imperialism (Rancière, 2004, p. 12). These discussions, led by newly decolonized states, national liberation movements, and their supporters verified the falsity of
limiting or believing it possible to empirically quantify suffering and injury, and identified the specificities of the wrongs done in the name of imperialism. This move, in turn, required a transformative grasp of history, and of the histories of the laws of war through which the colonized and the wars against them were governed — a position that challenged the separation of *ius ad bello* and *ius in bello* and, moreover, a position that aspired to change the bases of contemporary laws of war. Thus, the participation of newly decolonized states and national liberation movements at the Diplomatic Conferences both enacted and produced different “ways of doing, ways of being, and ways of saying,” influencing the formal substance of the laws of war and confirming, in Cabral’s words, that while “the colonialists usually say that it was they who brought us into history; today we show that this is not so” (McCulloch, 1981, p. 44; Rancière, 1999, p. 29).

To pay attention to the debate over superfluous suffering and unnecessary injury, and the politics of the debate, is also to recognize that this moment of politics — the claiming of the injustice of imperialism which, unto itself, forces a new stage and results in new distribution of the sensible — is contingent and never fully realized. We are reminded of this by those “living under the drones” who demand, against all insistence that the drones are a legal means of war, a full registering of the suffering and injury to which they are subject.

**NOTES**

1. I use the term “Third World” in recognition of its use and circulation during the period under discussion as highlighting a history of colonization and imperialism, foregrounding economic and political inequalities, and referring to a self-identified group of states and national liberation movements — a “revolutionary network” (Chamberlin, 2011, pp. 11, 270).

2. Some newly decolonized state representatives, such as Algeria, participated in the expert meetings leading up to the Diplomatic Conferences. However, this form of participation was not as a recognized or official representative of the state itself, but in a “private” role, and delegates at these meetings could not bind their states to agreed upon language. I say more about the contests over participation in the Diplomatic Conferences below.

3. I do not have sufficient space to fully detail the changes to combatant status and the radical definition of Protocol I’s scope of application, both of which were a result of advocacy and agitation on the part of newly decolonized states and national liberation movements. Somewhat ironically, newly decolonized states and national liberation movements also disrupted attempts to expand the scope of Protocol II, notwithstanding the conventional (and recently imperial) understanding
of state sovereignty it confirmed. For longer discussion of the politics of both moves, see Mantilla (2013), Kinsella (2011), Suter (1984).

4. The 1899 Hague Conference concluded with two Hague Declarations Concerning Asphyxiating Gases and Expanding Bullets, both of which were “inspired by the sentiments which found expression” in the St. Petersburg Declaration (Hague-Peace-Conference_1899.pdf).

5. “Sir John Ardagh, in accord with the Austrian delegate, adds that there is a difference in war between civilized nations and that against savages. If, in the former, a soldier is wounded by a small projectile, he is taken away in the ambulance, but the savage, although run through two or three times, does not cease to advance” (Méret, 2006; Orford, 2006).

6. Preamble to Article 1 of the 1907 Hague Conventions reads: “Recognizing the solidarity uniting the members of the society of civilized nations; Desirous of extending the empire of law and of strengthening the appreciation of international justice” (Hague-Peace-Conference_1907-V-1.pdf, p. 347).


8. This was followed by the UN SG’s two volumes of analysis on “Existing Rules of International Law Concerning the Prohibition or Restriction of Use of Specific Weapons,” UN Doc. A/9215 (November 7, 1973) (Vol. I, II). The instructions from the GA were that the UNSCG was to focus on the “prohibition of the use of weapons and methods of warfare which indiscriminately affect civilians and combatants, and the prohibition or restriction of the use of specific weapons which are deemed to cause unnecessary suffering” (Baxter, 1977, p. 47). The writing of the reports was done almost entirely without experts from the “Western Alliance” (Blix, 1974, p. 23).

9. As Havercroft and Owen (2016, p. 746) explain, these efforts effected a “double-movement” composed of: “(1) a dis-identification of ‘the part of those with no part’ with the existing order and (2) the exemplification of a world in which the distinction between those who have a part and those who have no part is erased.”

10. It also founded a journal titled *Tricontinental* in which the writings of Cabral, Sartre, Guevara, Ho Chi Minh, Fanon, and others helped to depict national liberation “not as a single political and theoretical position, but as a transnational body of work with a common aim of popular liberation – political, economic, material, cultural – for the countries of the South” (Chapman & Young, 2006, p. 201).

11. The cost of attendance at these multiple conferences, as well as the number of delegates required to be in attendance at all of the various conferences, was well beyond that which most national liberation movements and newly independent states could afford.

12. This was made most evident in the exclusion of nuclear weapons entirely from the debates, and in the signing statement of the United States which expressly noted that the rules of Protocol I did not have “any effect on ... regulate or prohibit” the use of nuclear weapons (Aldrich, 1981, p. 781).

13. “The heads of State of Government of Non-Aligned Countries ... urged all States to pursue their negotiations at the Diplomatic Conference with a view to the prohibition of certain cruel weapons, particularly napalm and other incendiary weapons” (RC-records_Vol-7.pdf, p. 381).
14. That it does not ban specific weapons is a result of diplomatic and state maneuvering. “It is apparent … that the primary reason for the failure … lies in the non-cooperative attitude and the delaying tactics of two groups of States: those of NATO (minus Norway) and those of the Warsaw Pact (minus Romania). This strong coalition succeeded in nullifying all the generous efforts of a group of States, made up of some Afro-Asian countries, a few Latin American countries and some Western States such as Sweden and Norway” (Cassese, 1981, p. 184).

15. The delegate from Nigeria “regretted that his delegation had not the resources to enable it to participate fully in the work of the Ad Hoc Committee” (RC-records_Vol-16.pdf, pp. 182, 356). The work of the Diplomatic Conference was divided into four commissions, in addition to the Ad Hoc Committee and the ICRC meetings. Smaller delegations, often made up of only one or two individuals outside of those from the Western and Soviet delegations, were unable to fully participate, while attendance was subject to availability of national funding — two months of annual meetings for four years was an exorbitant cost (Baxter, 1975; Forsythe, 1977, p. 141).

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