

Protecting the Victims of War

International humanitarian law (IHL) is the branch of international law that encompasses both humanitarian principles and international treaties that seek to save lives and alleviate suffering of both combatants and noncombatants during armed conflicts.

IHL's principal legal documents are the Geneva Conventions of 1949 — four international treaties signed by almost every nation in the world. These Conventions provide specific rules to safeguard combatants (members of the armed forces) who are wounded, sick, or shipwrecked; prisoners of war; and civilians; as well as medical personnel, military chaplains, and civilian support workers of the military. The 1977 Additional Protocols, which supplement the Geneva Conventions, further expand these humanitarian rules.

International humanitarian law is founded on the principles of humanity, impartiality, and neutrality. Its roots extend to such historic concepts of justice as Babylon's Hammurabic Code, the Code of Justinian from the Byzantine Empire, and the Lieber Code used during the United States Civil War.

The development of modern international humanitarian law can be credited to the efforts of a 19th Century Swiss businessman, Henry Dunant. In 1859, he witnessed the aftermath of a bloody battle among French and Austrian armies in Solferino, Italy. The departing armies left a battlefield littered with wounded and dying men. Despite Dunant's valiant efforts to mobilize aid for the soldiers, thousands died.

In *A Memory of Solferino*, his book about the experience, Dunant proposed that volunteer relief groups be granted protection during war in order to care for the wounded. A group known as the Committee of Five (later to become the International Committee of the Red Cross) formed in Geneva in 1863 to act on Dunant's suggestions. Several months later, diplomats from 16 nations, assisted by representatives of military medical services and humanitarian societies, negotiated a convention (treaty) containing 10 articles specifying that—

- Ambulances, military hospitals, and the personnel serving with them are to be recognized as neutral and protected during conflict.
- Citizens who assist the wounded are to be protected.

- Wounded or sick combatants are to be collected and cared for by either side in a conflict.
- The symbol of a red cross on a white background (the reverse of the Swiss flag in honor of the origin of this initiative) will serve as a protective emblem to identify medical personnel, equipment, and facilities.

Known as the Geneva Convention, this agreement became the foundation of modern international humanitarian law, which now encompasses four conventions and two additional protocols. Collectively, they represent the world community's modern efforts to protect people in times of armed conflict.

The Geneva Conventions of 1949 and their Additional Protocols of 1977

In 1949, an international conference of diplomats built on the earlier treaties for the protection of war victims, revising and updating them into four new conventions comprising 429 articles of law. These treaties, known as the Geneva Conventions of August 12, 1949, have been signed by almost every nation in the world. The Additional Protocols of 1977 supplement the Geneva Conventions.

The Geneva Conventions apply in all cases of declared war, or in any other armed conflict between nations. They also apply in cases where a nation is partially or totally occupied by soldiers of another nation, even when there is no armed resistance to that occupation.

Nations that ratify the Geneva Conventions must abide by certain humanitarian principles and impose legal sanctions against those who violate them. Ratifying nations must "enact any legislation necessary to provide effective penal sanctions for persons committing or ordering to be committed any of the grave breaches (violations)" of the Conventions.

The following pages provide a basic overview of the Conventions and Protocols and a quick reference to the legal text of the treaties. For a comprehensive listing of all legal provisions, refer to the actual treaty documents *The Geneva Conventions of August 12, 1949* and *Protocols additional to the Geneva Conventions of 12 August 1949*.



The First Geneva Convention

(The Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field of August 12, 1949)

The First Geneva Convention protects soldiers who are *hors de combat* (out of the battle). The 10 articles of the original 1864 version of the Convention have been expanded in the First Geneva Convention of 1949 to 64 articles that protect—

- Wounded and sick soldiers.
- Medical personnel, facilities, and equipment.
- Wounded and sick civilian support personnel accompanying the armed forces.
- Military chaplains.
- Civilians who spontaneously take up arms to repel an invasion.

Specific Provisions:

This Convention specifies that the wounded and sick shall—

- Art. 12
- Be respected and protected without discrimination on the basis of sex, race, nationality, religion, political beliefs, or other criteria.
- Art. 12
- Not be murdered, exterminated, or subjected to torture or biological experiments.
- Art. 15
- Receive adequate care.
- Art. 15
- Be protected against pillage and ill-treatment.
- Arts. 15-16
- All parties in a conflict must search for and collect the wounded and sick, especially after battle, and provide the information to the Central Tracing Agency of the International Committee of the Red Cross (ICRC).
- Art. 9
- This Convention, like the others, recognizes the right of the ICRC to assist the wounded and sick. Red Cross and Red Crescent national societies, other authorized impartial relief organizations, and neutral governments may also provide humanitarian service. Local civilians may be asked to care for the wounded and sick.

The Second Geneva Convention

(The Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea of August 12, 1949)

The Second Geneva Convention adapts the protections of the First Geneva Convention to reflect conditions at sea. It protects wounded and sick combatants while on board ship or at sea. Its 63 articles apply to—

- Armed forces members who are wounded, sick, or shipwrecked.
- Hospital ships and medical personnel.
- Civilians who accompany the armed forces.

Specific Provisions:

- Arts. 12, 18
- This Convention mandates that parties in battle take all possible measures to search for, collect, and care for the wounded, sick, and shipwrecked. “Shipwrecked” refers to anyone who is adrift for any reason, including those forced to land at sea or to parachute from aircraft.
- Art. 21
- Appeals can be made to neutral vessels, including merchant ships and yachts, to help collect and care for the wounded, sick, and shipwrecked. Those who agree to help cannot be captured as long as they remain neutral.
- Arts. 36-37
- Religious, medical, and hospital personnel serving on combat ships must be respected and protected. If captured, they are to be sent back to their side as soon as possible.
- Art. 22
- Hospital ships cannot be used for any military purpose. They cannot be attacked or captured. The names and descriptions of hospital ships must be conveyed to all parties in the conflict.
- Art. 14
- While a warship cannot capture a hospital ship’s medical staff, it can hold the wounded, sick, and shipwrecked as prisoners of war, providing they can be safely moved and that the warship has the facilities to care for them.

The Third Geneva Convention

(The Geneva Convention Relative to the Treatment of Prisoners of War of August 12, 1949)

The Third Geneva Convention sets out specific rules for the treatment of prisoners of war (POWs). The Convention's 143 articles require that POWs be treated humanely, adequately housed, and receive sufficient food, clothing, and medical care. Its provisions also establish guidelines on labor, discipline, recreation, and criminal trial. Prisoners of war may include—

- Members of the armed forces.
- Volunteer militia, including resistance movements.
- Civilians accompanying the armed forces.

Specific Provisions:

Arts. 70-72, 123 Names of prisoners of war must be sent immediately to the Central Tracing Agency of the ICRC. POWs are to be allowed to correspond with their families and receive relief packages.

Arts. 13-14, 16 Prisoners of war must not be subjected to torture or medical experimentation and must be protected against acts of violence, insults, and public curiosity. Captors must not engage in any reprisals or discriminate on the basis of race, nationality, religious beliefs, political opinions, or other criteria. Female POWs must be treated with regard due to their sex.

Arts. 25-27, 30 POWs are required to provide to their captors only their name, rank, date of birth, and military service number.

Art. 23 POWs must be housed in clean, adequate shelter, and receive the food, clothing, and medical care necessary to maintain good health. They must not be held in combat areas where they are exposed to fire, nor can they be used to "shield" areas from military operations. They may be required to do non-military jobs under reasonable working conditions when paid at a fair rate.

Arts. 50, 54 Prisoners are subject to the laws of their captors and can be tried by their captors' courts. The captor shall ensure fairness, impartiality, and a competent advocate for the prisoner.

Arts. 109-110 Seriously ill POWs must be repatriated (returned home).

Art. 118 When the conflict ends, all POWs shall be released and, if they request, be sent home without delay.

Art. 125 The ICRC is granted special rights to carry out humanitarian activities on behalf of prisoners of war. The ICRC or other impartial humanitarian relief organizations authorized by parties to the conflict must be permitted to visit with prisoners privately, examine conditions of confinement to ensure the Conventions' standards are being met, and distribute relief supplies.

Common Article 3: Non-International Armed Conflicts

All four Geneva Conventions contain an identical Article 3 extending general coverage to non-international conflicts. Under this article, those who have put down their arms or are out of the conflict due to injury or sickness must be treated humanely, without any adverse discrimination based on race, color, religion, sex, social status, or wealth, or any other such criteria. Article 3 specifically prohibits—

- "Violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture;
- Taking of hostages;
- Outrages upon personal dignity, in particular, humiliating and degrading treatment;
- The passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court, affording all the judicial guarantees which are recognized as indispensable by civilized peoples."

The wounded and sick are also to be collected and cared for. The ICRC or other impartial humanitarian body may offer its services.

The Fourth Geneva Convention

(The Geneva Convention Relative to the Protection of Civilian Persons in Time of War of August 12, 1949)

Civilians in areas of armed conflict and occupied territories are protected by the 159 articles of the Fourth Geneva Convention.

Specific Provisions:

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| Arts. 79-135 | If security allows, civilians must be permitted to lead normal lives. They are not to be deported or interned — except for imperative reasons of security. If internment is necessary, conditions should be at least comparable to those set forth for prisoners of war. Pillage, reprisals, indiscriminate destruction of property, and the taking of hostages are prohibited. | Art. 40 | Civilians cannot be forced to do military-related work for an occupying force. They are to be paid fairly for any assigned work. Public officials will be permitted to continue their duties. |
| Arts. 33-34 | | Art. 54 | Laws of the occupied territory will remain in force unless they present a security threat. |
| Art. 27 | The safety, honor, family rights, religious practices, manners, and customs of civilians are to be respected. | Art. 64 | |
| Arts. 32, 13 | Civilians are to be protected from murder, torture, or brutality, and from discrimination on the basis of race, nationality, religion, or political opinion. They are not to be subjected to collective punishment or deportation. | Art. 55 | Occupying powers are to provide food and medical supplies as necessary to the population and maintain medical and public health facilities. When that is not possible, they are to facilitate relief shipments by impartial humanitarian organizations such as the ICRC. The Red Cross or other impartial humanitarian relief organizations authorized by the parties to the conflict are to be allowed to continue their activities. |
| Arts. 33, 49 | | Art. 59 | |
| Arts. 24, 25 | This Convention provides for the care of children who are orphaned or separated from their families. The ICRC's Central Tracing Agency is also authorized to transmit family news and assist with family reunifications, with the help of Red Cross and Red Crescent national societies. | Arts. 89-91 | Internees are to receive adequate food, clothing, and medical care, and protected from the dangers of war. Information about internees is to be sent to the Central Tracing Agency. Internees have the right to send and receive mail and receive relief shipments. Children, pregnant women, mothers with infants and young children, the wounded and sick, and those who have been interned for a long time are to be released as soon as possible. |
| Art. 14 | Hospital and safety zones may be established for the wounded, sick, and aged, children under 15, expectant mothers, and mothers of children under seven. Civilian hospitals and their staff are to be protected. Medical supplies and objects used for religious worship are to be allowed passage. | Art. 106 | |
| Art. 18 | | Arts. 108, 107 | |
| Arts. 55, 58 | | Art. 132 | |

The 1977 Protocols Additional to the Geneva Conventions of 1949

In 1977, two Protocols supplementary to the Geneva Conventions were adopted by an international diplomatic conference to give greater protection to victims of both international and internal armed conflicts.

Over 100 nations have ratified one or both Protocols, and they are under consideration by many others. Any nation that has ratified the Geneva Conventions but not the Protocols is still bound by all provisions of the Conventions.

Protocol I (102 Articles)

(Protocol additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts)

Protocol I expands protection for the civilian population as well as military and civilian medical workers in international armed conflicts.

Specific Provisions:

- Arts. 51, 54 It outlaws indiscriminate attacks on civilian populations and destruction of food, water, and other materials needed for survival.
- Arts. 56, 53 Dams, dikes, and nuclear generating stations may not be attacked, nor can cultural objects and places of worship.
- Arts. 76-77 Special protections are provided for women, children, and civilian medical personnel, and measures of protection for journalists are specified.
- Arts. 15, 79 Recruitment of children under age 15 into the armed forces is forbidden.
- Arts. 43-44 Protocol I seeks to clarify the military status of members of guerrilla forces in the following manner. It includes provisions granting combatant and prisoner of war status to members of dissident forces when under the command of a central authority. Such combatants cannot conceal their allegiance; they must be recognizable as combatants while preparing for or during an attack.
- Art. 35 Use of weapons that "cause superfluous injury or unnecessary suffering," as well as means of warfare that "cause widespread, long-term, and severe damage to the natural environment," are prohibited.
- Art. 85 It is a war crime to use one of the protective emblems recognized by the Geneva Conventions to deceive the

opposing forces or to use other forms of treachery.

- Arts. 17, 81 The ICRC, national societies, or other impartial humanitarian organizations authorized by parties to the conflict must be permitted to provide assistance.

Protocol II (28 Articles)

(Protocol additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts)

Protocol II elaborates on protections for victims caught up in high-intensity internal conflicts such as civil wars. It does not apply to such internal disturbances as riots, demonstrations, and isolated acts of violence. Protocol II expands and complements the non-international protections contained in Article 3 common to all four Geneva Conventions of 1949.

Specific Provisions:

- Art. 4 It stipulates that persons who do not take a direct part or who have ceased to take part in hostilities, are entitled to respect. In all circumstances they are to be treated humanely. Protocol II specifically prohibits violence to the life, health, and physical or mental well-being of people. In particular, it prohibits acts of murder and cruel treatment, terrorism, hostage-taking, slavery, outrages on personal dignity, collective punishment, and pillage. These protections are considered fundamental guarantees for all persons.
- Art. 4 Children are to be evacuated to safe areas when possible, and reunited with their families.
- Art. 5 Persons interned or detained during internal conflicts are assured of the same humane treatment as specified by the Geneva Conventions.
- Arts. 7, 9 It strengthens protection of the wounded, sick, and shipwrecked as well as medical and religious personnel.
- Arts. 10-11 Attacks are forbidden on civilians and on "objects indispensable to civilian survival" such as crops, irrigation systems or drinking water sources, cultural objects, and places of worship.
- Arts. 13-14
- Art. 16 Impartial humanitarian relief organizations—such as the ICRC—are to be permitted to continue their humanitarian services.
- Art. 18

Protective Emblems Under International Humanitarian Law

Those drafting the Geneva Convention of 1864 foresaw the need for a universal symbol of protection easily recognizable on the battlefield. In honor of the origin of this initiative, the symbol of a red cross on a white background (the reverse of the Swiss flag) was identified as a protective emblem in conflict areas. The red crescent and red lion and sun emblems were later recognized by nations at a diplomatic conference in 1929 as additional emblems of humanitarian relief. Of these additional emblems, only the red crescent is currently in use. Although not in the Geneva Conventions, the red shield of David, used by Israel, is also a respected emblem.

These emblems are used to identify and protect medical and relief workers, military and civilian medical facilities, mobile units, and hospital ships. They are also used to identify the programs and activities of Red Cross and Red Crescent national societies, and those of the Magen David Adom (Red Shield of David) humanitarian society in Israel.

Widespread understanding and acceptance of these humanitarian emblems is crucial to save lives and alleviate suffering.

RED CROSS



RED CRESCENT



RED SHIELD OF DAVID



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