

## THE “GENEVA CONVENTIONS” AND THE PROTOCOLS ADDED

INITIATED BY THE INTERNATIONAL RED CROSS IN 1864

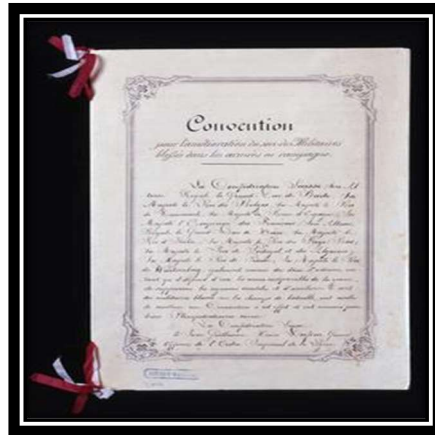
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UPDATED JUNE 2017

The Geneva Convention was a series of international diplomatic meetings that produced a number of agreements, in particular the Humanitarian Law of Armed Conflicts, a group of international laws for the humane treatment of wounded or captured military personnel, medical personnel and non-military civilians during war or armed conflicts.

The Geneva Conventions are four treaties, and three additional protocols, that establish international legal standards for humanitarian treatment in war. The singular term Geneva Convention usually denotes the agreements of 1949, negotiated in the aftermath of the Second World War (1939–1945), which updated the terms of the two 1929 treaties and added two new conventions.



*First page of the Geneva Convention of 22nd of August 1864*

The Geneva Conventions extensively defines the basic rights of wartime prisoners (civilians and military personnel), established protections for the wounded and sick, and provided protections for the civilians in and around a war-zone; moreover, the Geneva Convention also defines the rights and protections afforded to non-combatants.

The treaties of 1949 were ratified, in their entirety or with reservations, by 196 countries.

The Geneva Conventions concern only combatants in war; they do not address the use of weapons of war, which is the subject of the Hague Conventions and the bio-chemical warfare Geneva Protocol.

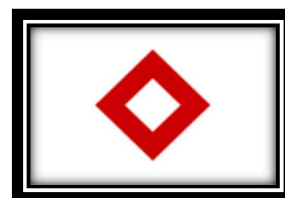
The first Convention was initiated by what is now the International Committee for the Red Cross and Red Crescent



RED CROSS FLAG



RED CROSS POSTER- WWI



RED CROSS CRESCENT

*This article addresses the International Humanitarian Law, or Law of War.* For information on immigration and links to the 1951 Convention and 1967 Protocol Relating to the Status of Refugees, see the article about Immigration.

*To view, copy and paste the link below to your browser*

<https://www.law.cornell.edu/wex/immigration>

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Copies of pages contained in the original document are available to view. They are shown in Chapter 3 entitled: The Geneva Conventions and Their Additional Protocols on pages 199-387.

*To view these pages, copy and paste the link below into your browser*

[http://www.oas.org/dil/introductory\\_course\\_on\\_international\\_humanitarian\\_2007\\_ihl\\_instruments.pdf](http://www.oas.org/dil/introductory_course_on_international_humanitarian_2007_ihl_instruments.pdf)

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## **HISTORY**

HENRY DURANT.. For much of mankind's history, the ground rules of warfare were hit or miss, if they existed at all. While some civilizations showed compassion for the injured, helpless or innocent civilians, others tortured or slaughtered anyone in sight, no questions asked.

In 1859, Genevan businessman Henry Dunant traveled to Emperor Napoleon III's headquarters in northern Italy to seek land rights for a business venture. He got much more than he bargained for, however, when he found himself a witness to the aftermath of the Battle of Solferino, a gory battle in the Second War of Italian Independence.

The horrific suffering Dunant saw impacted him so greatly he wrote a first-hand account in 1862 called *Memory of Solferino*. But he didn't just write about what he'd observed, he also proposed a solution: All nations come together to create trained, volunteer relief groups to treat battlefield wounded and offer humanitarian assistance to those affected by war.

Despite playing an important role in the progression of what became the International Committee of the Red Cross, continuing his work as champion for the battle-wounded and prisoners of war and winning the first Nobel Peace Prize, Despite Dunant lived and died in near poverty.

The original Geneva Convention was adopted in 1864 to establish the red cross emblem signifying neutral status and protection of medical services and volunteers. Other emblems were later recognized, and the Geneva Conventions of 1949, the main topic of this article, confirmed them all.



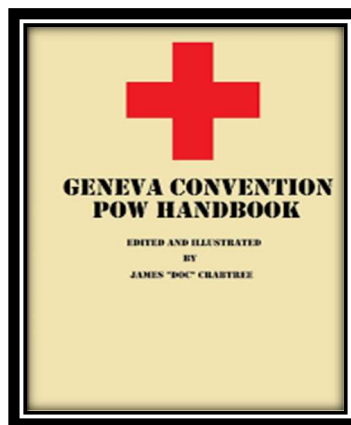
*Meeting in 1955*

## OVERVIEW

The Geneva Conventions and their Additional Protocols is a body of **Public International Law, also Armed Conflicts known as the Humanitarian Law of War**, whose purpose is to provide minimum protections, standards of humane treatment, and fundamental guarantees of respect to individuals who become victims of armed conflicts.

The Geneva Conventions are a series of treaties on the treatment of civilians, prisoners of war (POWs) and soldiers who are otherwise rendered *hors de combat* (French, literally "outside the fight"), or incapable of fighting. This convention produced a treaty designed to protect wounded and sick soldiers during wartime. The Swiss Government agreed to hold the Conventions in Geneva, and a few years later, a similar agreement to protect shipwrecked soldiers was produced. **In 1949, after World War II, two new Conventions were added, and the Geneva Conventions entered into force on 21 October 1950.**

Ratification grew steadily through the decades: 74 States ratified the Conventions during the 1950s, 48 States did so during the 1960s, 20 States signed on during the 1970s, and another 20 States did so during the 1980s. Twenty-six countries ratified the Conventions in the early 1990s, largely in the aftermath of the break-up of the Soviet Union, Czechoslovakia and the former Yugoslavia. Seven new ratifications since 2000 have brought the total number of States Party to 194, making the Geneva Conventions universally applicable. While the 1949 Geneva Conventions have been universally ratified, the Additional Protocols have not. At present, 168 States are party to Additional Protocol I and 164 States to Additional Protocol II, this still places the 1977 Additional Protocols among the most widely accepted legal instruments in the world.



## CONVENTION ONE – 1864

This Convention represents the fourth updated version of the Geneva Convention on the wounded and sick following those adopted in 1864, 1906 and 1929. It contains 64 articles. These provide protection for the wounded and sick, but also for medical and religious personnel, medical units and medical transports. **The Convention also recognizes the distinctive emblems.** It has two annexes containing a draft agreement relating to hospital zones and a model identity card for medical and religious personnel.

## CONVENTION TWO – 1907

This Convention replaced the Hague Convention of 1907 for the Adaptation to Maritime Warfare of the Principles of the Geneva Convention. It closely follows the provisions of the first Geneva Convention in structure and content. It has 63 articles specifically applicable to war at sea. For example, it protects hospital ships. It has one annex containing a model identity card for medical and religious personnel.

## CONVENTION THREE – 1929

This Convention replaced the Prisoners of War Convention of 1929. It contains 143 articles whereas the 1929 Convention had only 97.

The categories of persons entitled to prisoner of war status were broadened in accordance with Conventions I and II. The conditions and places of captivity were more precisely defined, particularly with regard to the labor of prisoners of war, their financial resources, the relief they receive, and the judicial proceedings instituted against them.

The Convention establishes the principle that prisoners of war shall be released and repatriated without delay after the cessation of active hostilities. The Convention has five annexes containing various model regulations and identity and other cards.

#### CONVENTION FOUR -1949

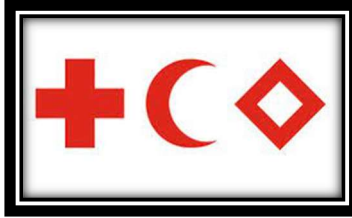
The Geneva Conventions, which were adopted before 1949 were concerned with combatants only, not with civilians. The events of World War II showed the disastrous consequences of the absence of a convention for the protection of civilians in wartime. The Convention adopted in 1949 takes account of the experiences of World War II. It is composed of 159 articles. It contains a short section concerning the general protection of populations against certain consequences of war, without addressing the conduct of hostilities, as such, which was later examined in the Additional Protocols of 1977. The bulk of the Convention deals with the status and treatment of protected persons, distinguishing between the situation of foreigners on the territory of one of the parties to the conflict and that of civilians in occupied territory. It spells out the obligations of the Occupying Power vis-à-vis the civilian population and contains detailed provisions on humanitarian relief for populations in occupied territory. It also contains a specific regime for the treatment of civilian internees. It has three annexes containing a model agreement on hospital and safety zones, model regulations on humanitarian relief and model cards.



#### PROTOCOL ONE

In the two decades that followed the adoption of the Geneva Conventions, the world witnessed an increase in the number of non-international armed conflicts and wars of national liberation. In response, two Protocols Additional to the four 1949 Geneva Conventions were adopted in 1977. They strengthen the protection of victims of international (Protocol I) and non-international (Protocol II) armed conflicts and place limits on the way wars are fought. Protocol II was the first-ever international treaty devoted exclusively to situations of non-international armed conflicts.

In 2005, a third Additional Protocol was adopted creating an additional emblem, the Red Crystal, which has the same international status as the Red Cross and Red Crescent emblems.



Red Cross - Red Crescent - Red Crystal

### **PROTOCOL TWO**

In this Protocol, the fundamentals of "humane treatment" were further clarified. Additionally, the rights of interned persons were specifically enumerated, providing protection for those charged with crimes during wartime. It also identified new protections and rights of civilian populations.

### **PROTOCOL THREE**

Adopted in 2005 to add another emblem, the "red crystal," to the list of emblems used to identify neutral humanitarian aid workers.

The United States has signed and ratified the four Conventions of 1949 and Protocol III of 2005, but has not ratified the two Protocols of 1977, though it has signed them.

Disputes arising under the Conventions or the Protocols are settled by courts of the member nations (Article 49 of Convention I) or by international tribunals.

The ICRC has a special role given by the Geneva Conventions: it handles, and is granted access to, the wounded, sick, and POWs.

### **ARTICLE THREE – COMMONLY APPLIED TO ALL PROTOCOLS OF THE GENERAL CONVENTIONS**

Article 3 of the Geneva Conventions covered, for the first time, situations of non-international armed conflicts. Types vary greatly and include traditional civil wars or internal armed conflicts that spill over into other States, as well as internal conflicts in which third-party States or multinational forces intervene alongside the government.

Common Article 3 functions like a mini-Convention within the larger Geneva Convention itself and establishes fundamental rules from which no derogation is permitted, containing the essential rules of the Geneva Convention in a condensed format, and making them applicable to non-international conflicts.

It requires humane treatment for all persons in enemy hands, without discrimination. It specifically prohibits murder, mutilation, torture, the taking of hostages, unfair trial, and cruel, humiliating and degrading treatment.

It requires that the wounded, sick and shipwrecked be collected and cared for.

It grants the ICRC the right to offer its services to the parties to the conflict.

It calls on the parties to the conflict to bring all or parts of the Geneva Conventions into force through "special agreements."

It recognizes that the application of these rules does not affect the legal status of the parties to the conflict.

Given that most armed conflicts today are non-international, applying Common Article 3 is of the utmost importance. Its full respect is required.

### **APPLICABILITY OF THE GENEVA CONVENTIONS**

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The Conventions apply to all cases of declared war between signatory nations. This is the original sense of applicability, which predates the 1949 version.

The Conventions apply to all cases of armed conflict between two or more signatory nations, even in the absence of a declaration of war. This language was added in 1949 to accommodate situations that have all the characteristics of war without the existence of a formal declaration of war, such as a police action (a military action undertaken without a formal declaration of war).

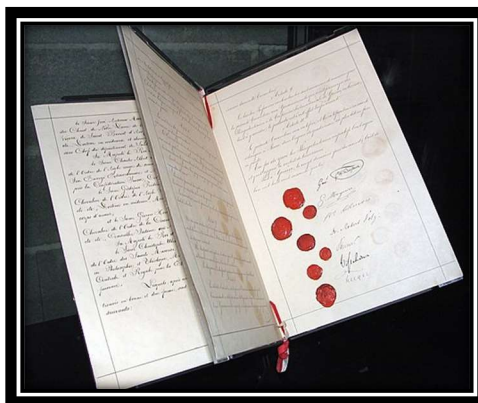
The Conventions apply to a signatory nation even if the opposing nation is not a signatory, but only if the opposing nation "accepts and applies the provisions" of the Conventions. Source: 1952 Commentary on the Geneva Conventions, edited by Jean Pictet

#### OTHER PROVISIONS OF THE CONVENTION INCLUDE

"Each Party to a conflict is required to furnish the persons under its jurisdiction who are liable to become prisoners of war, with an identity card showing the owner's surname, first names, rank, army, regimental, personal or serial number or equivalent information, and date of birth. The identity card may, furthermore, bear the signature or the fingerprints, or both, of the owner, and may bear, as well, any other information the Party to the conflict may wish to add concerning persons belonging to its armed forces. As far as possible the card shall measure 6.5 x 10 cm. and shall be issued in duplicate. **The identity card shall be shown by the prisoner of war upon demand, but may in no case be taken away from him.**"

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#### ENFORCEMENT OF THE GENEVA CONVENTIONS



*Original Convention Book*

The Geneva Conventions provide for universal jurisdiction, as opposed to a more traditional (and limited) territorial jurisdiction that was designed to respect the sovereignty of States over their citizens.<sup>2</sup> The doctrine of universal jurisdiction is based on the notion that some crimes, such as genocide, crimes



against humanity, torture, and war crimes, are so exceptionally grave that they affect the fundamental interests of the international community as a whole. It renders the convicts or accused of such crimes to the jurisdiction of all signatory States, regardless of their nationality or territoriality of their crime.

Every State bound by the treaties is under the legal obligation to search for and prosecute those in its territory suspected of committing such crimes, regardless of the nationality of the suspect or victim, or of the place where the act was allegedly committed. The State may hand the suspect over to another State or an international tribunal for trial.

Where domestic law does not allow for the exercise of universal jurisdiction, a State must introduce the necessary domestic legislative provisions before it can do so, and must actually exercise the jurisdiction, unless it hands the suspect over to another country or international tribunal.

Despite being signatory to the Conventions, there are some notable and often-criticized U.S. cases involving conduct that would otherwise be prohibited by the Conventions, such as *Hamdi v. Rumsfeld* (2004). In *Hamdi*, a U.S. citizen was accused of being a member of the Taliban forces on U.S. soil as an "enemy combatant," and was detained by unilateral Executive decision; The U.S. Supreme Court ruled on the validity of his detention. Hamdi argued that such detention was illegal under the Geneva Conventions, without express Congressional consent.

The Court rejected this argument and held that consent existed since September 11, 2001, through an Authorization for Use of Military Forces (AUMF), a Congressional resolution which empowered the President to use all necessary and appropriate forces against any nations, organizations, or persons that he determined to have planned, authorized, committed, or aided in the September 11, 2001 attacks.



Geneva Convention identification card

## **THE UNITED STATES MILITARY CODE OF CONDUCT**

**I am an American fighting in the forces that guard my country and our way of life,  
I am prepared to give my life in their defense.**

**I will never surrender of my own free will. If in command, I will never surrender the  
members of my command while they still have the means to resist.**

**If I am captured, I will continue to resist by all means available. I will make every  
effort to escape and aid others to escape. I will accept neither parole nor special  
favours from the enemy.**

If I become a prisoner of war, I will keep faith with my fellow prisoners. I will give no information nor take part in any action which might be harmful to my comrades.

If I am senior, I will take command. If not, I will obey the lawful orders of those appointed over me and will back them up in every way.

Should I become a prisoner of war, I am required to give name, rank, service number, and date of birth. I will evade answering further questions to the utmost of my ability. I will make no oral or written statements disloyal to my country and its allies.

I will never forget that I am an American fighting for freedom, responsible for my actions, and dedicated to the principles which made my country free.

I will trust in my God and in the United States of America.

**The Code of Conduct applies to all members of the U. S. Armed Forces, at all times.**

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#### **FREQUENTLY ASKED QUESTIONS ABOUT THE RULES OF WAR**

Copy and paste the link below into your browser. When the sight is loaded click on the individual questions to get the answers

<https://www.icrc.org/en/document/ihl-rules-of-war-FAQ-Geneva-Conventions>



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