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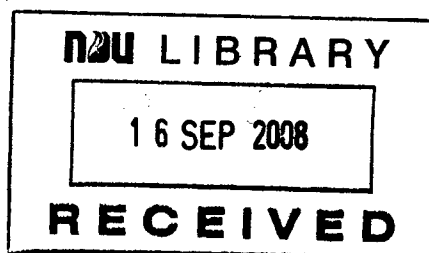
**Faculty of Political Science,
Public Administration & Diplomacy**

**The Right to Resistance in Occupied
Territories**

M.A. Thesis in International Law

By

Youssef T. Sfeir



The Right to Resistance in Occupied Territories

By

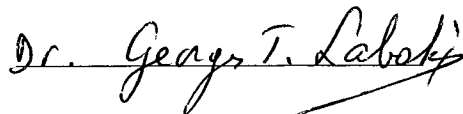
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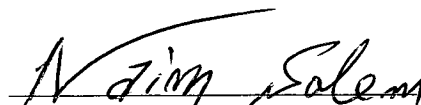
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“I must retrace my steps, and must deprive those who wage war of nearly all the privileges which I seemed to grant, yet did not grant to them. For when I first set out to explain this part of the Law of Nations I bore witness that many things are said to be “lawful” or “permissible” for the reason that they are done with impunity, in part also because coercive tribunals lend them their authority; things which nevertheless, either from the rule of right (whether this has its basis in law strictly so called, or in the admonitions of other virtues), or at any rate may be omitted on higher grounds and with greater praise among good men”.

Grotius: De jure belli ac pacis
Book III, Chapter XI, paragraph 2
(English translation: Francis G. Kelsey, Oxford, 1925).

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XIII- Security Council, Resolution 1483, May 22, 2003

Bibliography

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The Right to Resistance in Occupied Territories

Abstract

The writing of this thesis meets the obvious need for a general work on the law of armed conflict from its theoretical origins to the most recent political and legal developments. The title expresses one of the basic purposes of International Humanitarian Law, which is to provide, amid generalized barity of war, protection to civilians and those no longer taking part in the fighting, and even restrictions on the violent conduct between the combatants.

Resistance movements in occupied territories have been accepted as a concept since WWII. However, the exact characteristics of these movements, the rules applied to them, and the rights and duties have never been really clear. This thesis analyses the development of the concept of organized resistance movements and the efforts to regulate such organizations under International Humanitarian Law, culminating with the Additional Protocol of the Geneva Conventions, drafted in 1977. The main questions to be answered are whether these rules are adequate and if improvements are needed to protect civilians and combatants in occupied territories.

Abbreviations

AJIL	American Journal of International Law
AP	Additional Protocols to the Geneva Conventions, Geneva, 12 August, 1949
BYIL	British Yearbook of International Law
CPA	Coalition Provisional Authority
GC	Geneva Conventions of 12 August 1949
GCIH	Geneva Convention Relative to the Treatment of Prisoners of War, Geneva, 1949
GCIV	Geneva Convention Relative to the Protection of Civilian Persons in Time of War, Geneva, 1949
HCR	The Hague Convention Regulations Respecting the Laws and Customs of War on Land, annexed to The Hague (IV) Convention, Hague, 1899
IMT	International Military Tribunal
IHL	International Humanitarian Law

Chapter 1

Prologue

1.1 Purpose

The overall objective of this thesis is to analyze the concept of the right to resistance in occupied territories within the limits of the legal theories that emerged from several legally binding instruments.¹ These instruments constituted the basis of the International Humanitarian Law that applies during armed conflict, whereas, in several cases, it illustrates a situation of “Resistance Movements” and “Occupying State”.

The purpose is also to clarify the rights and duties of Resistance movements and occupying powers within occupied territories. It is important to define and establish the rights that have emerged in the last century for resistance movements to exist and operate in occupied territories and for occupying powers to legally manage the occupied territory and respect the provisions of the Law of Occupation.

¹ The Law of The Hague, 1899 and Geneva Conventions and the Additional Protocols. 1949.

This is an area that had developed during the last 50 years. Before World War II, the rule has been that resistance movements had no rights and were treated accordingly. The last half century's violence and wars have shown that resistance movements are not scared off by international rules; instead, they have emerged despite such rules. In such cases, the question should not be how to force resistance movements to comply with outdated rules, but rather how to modify existing rules to accommodate for today's conflicts.

This thesis, on the one hand, takes a brief look at the legal concept of Resistance and the rules of occupation as they have grown till recently, and, on the other hand, it will focus on the practical development of these rules until World War II and after it.

Hence, this thesis provides answers to two main questions:

1. Are the laws of war adequate as being applied on or adhered by resistance movements in occupied territories?
2. Can these rules be improved to encourage resistance movements and occupying powers to honor them?

1.2 Limitations

To begin with, it is necessary to state that there are several different forms of resistance. The main focus will be on the resistance emerging during occupation of a state's territories. In this area, the

rules are less clear than in the case of other forms of resistance. Furthermore, there are several different types of occupation, but the analysis tackles the situation of belligerent occupation, that is, occupation by a belligerent during and directly after the armed conflict. There are many cases of occupation and resistance that could be studied, but I have chosen to concentrate on a few and have divided them into time phases:

1. As a starting point, in the focus on the development of the rules of resistance up to WWII, the analysis tackles the German occupation of France, the resistance in the Netherlands, Denmark, and Norway.
2. Another focus is on the practical developments after WWII through three case studies related to Sweden, the United Kingdom and the American-British occupation of Iraq since 2003 under the banner of “Coalition Forces”, particularly when this occupation is extremely relevant at this juncture due to the extreme level of violence and destruction it has caused in Iraq and upon Iraqis and US forces.

This research deals only with armed resistance, and thus will not be concerned with civil resistance, such as the right of public officials and judges to abstain from fulfilling their functions for reasons of conscience, or civilians refusing to work for the occupying powers in

any specific form, as stipulated in Article 54 of the Fourth Geneva Convention.²

The right to civil resistance and the rules regulating it have not been put to question to the same degree as armed resistance, and is not, in my opinion, a controversial point of Humanitarian Law as armed resistance. As a result, this study centers on the legal instruments of International Humanitarian Law, and not on State Law.

1.3 Theory and Methodology

This thesis is based on the theories showing that the legal protection of resistance fighters has evolved, mostly during the last century, as an answer to factual occurrences in wars during this period. The perception is that the will of rulers did not, in the beginning, grant resistance fighters this protection, but rather discouraged civilians from taking up arms. By introducing a strict definition of combatant and civilian, it was hoped that humans would abide by these definitions. However, this was not the case, as civilians banded together in different constellations in diverse wars to resist the occupier, in blatant defiance of existing rules. Thus, it was

² GCIV, Art. 54. “The Occupying Power may not alter the status of public officials or judges in the occupied territories or in any way apply sanctions to or take any measures of coercion or discrimination against them, should they abstain from fulfilling their functions for reasons of conscience”.

necessary to change the rules to reflect the real situation. The thesis will acknowledge the theories of the ongoing development of the Laws of War, which depend on the evolution of warfare and globalization. Resistance to this development is strong among the major states, and the present reality highlights the necessity of strengthening the legal protection.

In order to address the above-mentioned developments, a historic overview of the evolution of the International Humanitarian Law during the last century is in order. The methodology consists of an analysis of relevant international legal documents, books, journals and periodicals on the subject matter. Thus, this thesis relies on and reflects opinions that transcend from The Hague Convention in 1899 till The Geneva Convention in 2005, and points to the rationale that dominated each period. A qualitative approach is adopted for the collection and analysis of data with major focus on the descriptive method. The materials collected include:

Primary Sources: A general overview is made of the transcripts from the Nuremberg International Military Tribunal, the regulations attached to the Hague Conventions and from the meetings held in Geneva in 1949 and from 1974 till 1977. Also it provides an analysis of several cases of resistance in European countries such as Italy, Denmark, Norway, the Netherlands and France. I had also worked on

several ICRC reports related to the occupation of territories in the Middle East region. Furthermore, my analysis was complemented by looking into the ICRC archive files including several informal interviews with some ICRC Delegates who had been a reference in the ICRC operations in several countries.

Secondary Sources: In order to obtain a comprehensive analysis, the first-hand materials gathered are supplemented by the input of several scholars and legal experts on the topic. Through the internet engines, a thorough survey of the available sources about “occupation of territories” has been carried out. The main dedicated websites of the ICRC³ and UN⁴ were valuable sources for comprehensive and specific information. For theoretical literature several specialized reviews of forums and conference transcripts were searched. In sum, the secondary materials can be classified into the following categories: books, internet, forums and journals.

A number of authors were selected for their continuous output on the subject and/or their analyses. Continuously evolving events have shaped the course of this research, and enriched the availability of secondary material on the subject.

³ www.icrc.org, consulted on 10 September 2006.

⁴ www.un.org, consulted on 15 September 2006.

1.4 Organization

The first part of the thesis tackles the concept of resistance and occupying powers by defining the theories and views that evolved during WWII and following it. This part analyzes the Nuremberg trials, the discussions regarding resistance movements that were held at the Diplomatic Conference in Geneva in 1949, leading to the adoption of the Four Geneva Conventions and the discussions at the second Diplomatic Conference in Geneva, 1974-1977, which in turn resulted in the adoption of the two Additional Protocols. The second section is a concise classification of the rights and duties of the occupying powers, according to the Laws of War as practiced today.

The second part focuses on the theoretical and practical application of the rules of resistance and occupation. This part analyzes two historical periods highlighting WWII developments and post WWII developments. Case studies of several countries, in different periods of time, will be assessed to see whether these countries differ in their application of the relevant rules.

The last part draws a conclusion on the inputs and outcomes of the first and second part, and it provides answers to two relevant questions related to the adequacy and improvement of the Laws of War.

Chapter 2

Historical Development of the Concept of Resistance: Definition, Theories & Views

2.1 Introduction

The International Law of Armed Conflict -- as was known in the nineteenth century or the Law of War as presently formulated -- although of relatively recent origin, has a long history dating back to 1860. Theories and practices gradually developed into a body of customary rules relating to the conduct of war: rules which parties to an armed conflict ought to respect even in the absence of unilateral declaration or reciprocal agreement to that effect.

The scope and content of these customary rules of warfare, as of customary law in general, remained somewhat elusive and uncertain. The most effective way for states to remove such uncertainties is by entering into treaties, and negotiating the rules embodying internationally accepted binding instruments. The instruments are generally called treaties, conventions, or protocols.

The treaty-making process with respect to rules of warfare dates back to the 1860s, two international conferences were convened

to conclude a treaty dealing with one highly specific aspect of the law of war: the first, in Geneva in 1864, debating the fate of wounded soldiers on the battlefield, and the other, in St. Petersburg in 1868, prohibiting the use of explosive rifle bullets. From these modest beginnings two distinct trends developed in 1949 (though never entirely separate) in the law of armed conflict, each characterized by its particular perspective: one called the Geneva Conventions,⁵ more particularly concerned with the conditions of war victims who fall into the enemy hands (such as prisoners of war, or interned civilians), and the other, referred to as the Law of The Hague,⁶ relating to the permissible means and methods of war.

2.2 The Concept of Resistance Movements

At the end of World War I, actions of the German occupation forces throughout Europe prompted sharp protests from the Allies, who condemned the "German practice of executing scores of innocent hostages".⁷ Unfortunately, the law was not completely on the side of those hostages. Reprisals against the civilian population and the taking of hostages were not *per se* forbidden at the time, and

⁵ <http://www.icrc.org/Web/Eng/siteeng0.nsf/htmlall/genevaconventions>, consulted on 20 September 2006

⁶ <http://www.icrc.org/ihl.nsf/FULL/145?OpenDocument>, consulted on 20 September 2006

⁷ This particular comment was made by Roosevelt, S. D. Stein, *Trials, Crimes and Laws, Overview*, 1941.

the right of the civilian population to resist an occupation was not expressly acknowledged. Nothing was said in the Regulations Respecting the Laws and Customs of War on Land, annexed to The Hague (IV) Convention, on hostages. The acts of reprisals were, under certain circumstances, considered perfectly legal.⁸ Article 2.3 of the 1929 Geneva Convention on Prisoners of War forbids reprisals against prisoners of war, and Article 50 HCR forbids penalty upon the civilian population for acts which they cannot be held collectively responsible.⁹ The civilian population may, however, be partly set aside to accommodate for military necessity, as long as the principle of proportionality is upheld and reprisals are not used simply as revenge.¹⁰

Indeed, Oppenheim¹¹ had called for legal regulation of these areas, as

⁸ United Nations War Crimes Commission, Law Reports of Trials of War Criminals, Volume VIII, case no. 47, "*The Hostages Trial, Trial of Wilhelm List and Others*", United States Military Tribunal, Nuremberg, notes on the Case, 1949, pp. 77, 80.

⁹ A. R. Albrecht, "*War Reprisals in the War Crimes Trials and in the Geneva Conventions of 1949*", in AJIL Vol. 47, 1953, p. 591.

¹⁰ E. Hammer & M. Salvin, "*The Taking of Hostages in Theory and Practice*" in AJIL, Vol.38, 1944, p. 30.

¹¹ Lassa Francis Lawrence Oppenheim (March 30, 1858 - October 7, 1919), was a renowned German jurist. He is regarded by many as the father of the discipline of international law. Born in Windeken near Frankfurt, Germany and educated at the Universities of Berlin, Göttingen, Heidelberg and Leipzig, he went to England in 1895 and lived there until his death. He first lectured at the London School of Economics and in 1908 became the Whewell Professor of International Law in the University of Cambridge. He is the author of the internationally renowned *International Law: A Treatise*, the first edition was published in 1905-1906. The eighth edition of the part on peace was edited by Sir Hersch Lauterpacht; the ninth and most recent edition of the same part was co-edited by

it had been done in the 1929 Geneva Convention on the Treatment of Prisoners of War. Although, only concerning prisoners of war, it was possible to lay down rules concerning reprisals.¹² This discussion was taken up again during the Nuremberg International Military Tribunal.

2.2.1 The Nuremberg Tribunal ¹³

Sir Robert Jennings and Sir Arthur Watts. The work is still considered as the standard text of International Law.

¹² United Nations War Crimes Commission, Law Reports of Trials of War Criminals, Volume VIII, case no. 47, "*The Hostages Trial, Notes on the Trial Case of Wilhelm List and Others*", United States Military Tribunal, Nuremberg, 1949, p. 80-81.

¹³ From November 20, 1945, until October 1, 1946, the International Military Tribunal (IMT) convened in the principal courtroom for criminal cases (room No. 600) in the Nuremberg Palace of Justice. At the conferences in Moscow (1943), Teheran (1943), Jalta (1945) and Potsdam (1945), the Big Three powers (USA, USSR and Great Britain) had agreed to try and to punish those responsible for war-crimes. Designated by President Harry S. Truman as U.S. representative and chief counsel at the IMT Supreme Court Justice **Robert H. Jackson** planned and organized the trial procedure and served as Chief Prosecutor for the USA. He recommended Nuremberg as site for the trials for several reasons. The Palace of Justice was spacious - it had 22,000 m² of space with about 530 offices and about 80 courtrooms; war damage to it was minimal; and a large, undestroyed prison was part of the complex. Since the Soviet Union had wanted the trials to take place in Berlin, the Allies reached a compromise in London on August 8, 1945, which stipulated that Berlin would be the permanent seat of the IMT and that the first trial (several were planned) would take place in Nuremberg. The court itself was to determine the locale for the subsequent trials. Because of the Cold War, however, there were no subsequent International Military Tribunals. Each of the four Great Powers - France was now included - provided one judge and an alternate; they provided the prosecutors too. The International Military Tribunal was opened on October 18, 1945, in the Supreme Court Building in Berlin, which had become the seat of the Allied Control Council. The first session was presided over by the Soviet judge, **Iola T. Nikitschenko**. The prosecution entered indictments against 24 "major war criminals" and against 6 "criminal organizations": Hitler's Cabinet, the leadership corps of the Nazi party, the SS (party police) and SD (security police), the Gestapo, the SA and the General Staff and High Command of the army.

The Nuremberg Tribunal took up a number of cases concerning German occupation and Germans as dealing with popular resistance within those territories. One trial against Wilhelm List and others concerned the Commander List's actions in Yugoslavia, Greece, and Albania based on Field marshal Keitel's order of September 16, 1941. Yugoslavia was invaded on April 6, 1941, and on April 28, 1941, Athens fell. The population remained peaceful at the beginning, but soon resistance groups emerged, sabotaging communication lines, and conducting surprise attacks on German troops.¹⁴ As a consequence, Commander List, the Wehrmacht (Army) Commander Southeast, issued an order stating that all men in the occupied territories were to be treated as potential insurgents, and that investigations into their actions should be made.¹⁵

When the Nuremberg Tribunal took up the case against List, the first question to be resolved was that of the status of the partisan groups operating in the occupied territories. The general argument of Germany was that resistance to the German occupation was illegal and that the German forces thus had the right to use reprisals and punish the perpetrators.

¹⁴ United Nations War Crimes Commission, Law Reports of Trials of War Criminals, Volume VIII, case no. 47, "*The Hostages Trial, Trial of Wilhelm List and Others*", United States Military Tribunal, The Judgment of the Tribunal, Nuremberg, 1949, p. 56.

¹⁵ *Ibid.*, p. 39-40.

Germany stated that it merely followed international law at the time verbatim and hence was harsh with resistors. This attitude is mirrored by Oppenheim who reiterated the opinion that, although private individuals cannot be prohibited by international law to take up arms, but if they do, they should then be regarded as war criminals¹⁶. Oppenheim continued:

“Hostilities in arms committed by private individuals are war crimes, not because they really are violations of recognized rules regarding warfare, but because the enemy has the right to consider and punish them as acts of illegitimate warfare. The conflict between praiseworthy patriotism on the part of such individuals and the safety of the enemy troops does not allow of any solution”.¹⁷

What Oppenheim meant was that there was a conflict between the rights of the occupied population and the safety of the occupying forces, and that, in such cases the safety of the occupying forces came first. Germany followed this line of thought, and further held fast to the requirement of some form of association between the resistance organization and an existing government and it was in line with the Hague Conventions.¹⁸

In the prevalent case, the Tribunal found that, although there were groups that did indeed fulfill the requirements of lawful

¹⁶ L. Nurick & R.W. Barrett, “*Legality of Guerrilla Forces Under the Laws of War*”, *American Journal of International Law*, 1946, p. 569-570.

¹⁷ *Ibid.*, p. 568-569.

¹⁸ *Ibid.*, p. 567.

belligerents, the majority of resistance groups did not: “The evidence fails to establish beyond a reasonable doubt that the incidents involved in the present case concern partisan troops having the status of lawful belligerents.”¹⁹ The Tribunal found that there was neither common uniform, nor any insignia worn (such as the Soviet Star) which could not be recognized at a distance. Further, arms were not carried openly, and there was seldom any recognizable military organization or command²⁰. Any captured members of these groups did not have the same right as prisoners of war; they were treated as *francs tireurs*²¹. The Tribunal was very clear in its position: “If the requirements of the Hague Regulation, 1907, are met, a lawful belligerency exists; if they are not met, it is an unlawful one.”²²

As has been shown above, one of the main ways the German occupying force sought to ensure the safety of its members was by taking hostages among the civilians and apply reprisals against the

¹⁹ United Nations War Crimes Commission, Law Reports of Trials of War Criminals, Volume VIII, case no. 47, “*The Hostages Trial, Trial of Wilhelm List and Others*”, United States Military Tribunal, Nuremberg, The Judgment of the Tribunal, p. 57.

²⁰ Ibid., p.57.

²¹ The tribunal went on to say: “We agree, therefore, with the contention of the defendant List that the guerrilla fighters with which he contended were not lawful belligerents entitling them to prisoner of war status upon capture. We are obliged to hold that such guerrillas were francs tireurs who, upon capture, could be subjected to the death penalty. Consequently, no criminal responsibility attaches to the defendant List because of the execution of captured partisans in Yugoslavia and Greece during the time he was Armed Forces Commander Southeast.” Ibid., p. 75.

²² Ibid., p. 59.

population for their subversive acts.²³ The taking and potential killing of hostages in war was not prohibited by International Law at the time, if done, in order to guarantee that the occupied population remained peaceful.²⁴ Likewise, reprisals were not forbidden, although a general penalty inflicted on the population on account of acts by individuals for whom the general population is not collectively responsible was forbidden by Article 50 HCR. Reprisals were seen as an inevitable occurrence to stave violations of the laws of war.

The German defense quoted the British Manual of Warfare and the American Manual of Land Warfare, which allowed for reprisals and hostage taking. However, looking closer at these two compilations, it is clear that these rules were heavily restricted.²⁵ The British Manual stated that hostages can be taken, but may not be killed.

The Prosecution rested its case on the Hague Convention, seeing that, although Convention did not expressly forbid such practices, one must look at the Martens Clause in the Preamble,

²³ A German General Staff ordinance, dated November 1940, reads: "If acts of violence are committed by the inhabitants of the country against members of the occupation forces, if offices and installations of the Armed Forces are damaged or destroyed, or if any other attacks are directed against the security of German units and service establishments, and if, under the circumstances, the population of the place of the crime or of the immediate neighborhood can be considered as jointly responsible for those acts of sabotage, measures of prevention and expiation may be ordered by which the civil population is to be deterred in future from committing, encouraging, or tolerating acts of that kind..." Presentation by the Chief Prosecutor for the French Republic. *Ibid.*, p. 120,

²⁴ *Ibid.*, p. 60-61.

²⁵ *Ibid.*, p. 87.

which states that, even though a certain concept is not regulated in the Convention, both civilians and combatants are protected by the principles of international law, customary law, and the “dictates of public conscience.”²⁶ The Prosecution argued that most authors in the field of International Law agreed, “that the killing of hostages [...] is unlawful, and that the continued confinement of hostages is as far as the occupying power is permitted to go.”²⁷

The Tribunal, like the German defense, referred to the British Manual of Military Law and the US Rules of Land Warfare in this respect, but stressed that the taking and executing of such hostages was subject to certain limitations.²⁸ Among these limitations it was stated that “the population generally’ must be a party ‘either actively or passively’, to the offenses whose cessation is aimed at” and that there must be proportionality between the hostages shot and the severity of the action it responds to.²⁹

The Tribunal took its lead from an article in the American Journal of International Law, that stated:

“The Germans have violated every duty of the occupying power to the civilian population. Automatically then the oppressed populations are released from any obligation of obedience: they cannot be denied the right of self-defense. The

²⁶ Ibid., p. 81.

²⁷ Ibid., p. 81-82.

²⁸ Ibid., p. 77.

²⁹ A. R. Albrecht, “*War Reprisals in the War Crimes Trials and in the Geneva Conventions of 1949*”, American Journal In International Law, Vol. 47, 1953, p. 605.

taking of hostages by the Germans for the purposes of reprisal and, generally, to maintain order in Europe, can have no legal sanction. "In no way do they mitigate the illegality of the German position. By destroying the basic legal relationship between the occupant and the civilian, the Germans have created a reign of terror."³⁰

This proved further the need for regulating said area in international humanitarian law.

Kalshoven, in 1971, commented on the German reprisals against the inhabitants of occupied territories during WW II, which he found to be illegal, stating, "...in face of such a perverted occupation régime the populations had acquired a positive right of resistance based on the fundamental right of self-defense of communities immediately threatened as to their very existence."³¹ Since the populations had acquired such a right to resist, then their actions could not, according to Kalshoven, be regarded as unlawful. Thus fell one of the basic criteria for engaging in reprisals. Furthermore, the German reprisals did not strike solely at individuals responsible for resistance, but at the innocent population, which was forbidden. Lastly, the reprisals were not proportionate to the damage caused by the resisters, but rather were based on a standard set by the

³⁰ E. Hammer & M. Salvin, "*The Taking of Hostages in Theory and Practice*", American Journal of International Law, Vol. 38, 1944, p. 27.

³¹ F. Kalshoven, "*Belligerent Reprisals*", Brill Academic Publishers, 1971, p. 204. Emphasis added in no.10 on the same page, he added, "The Germans have violated every duty of the Occupying Power to the civilian population. Automatically then the oppressed populations are released from any obligation of obedience: they cannot be denied the right of self-defense".

German High Command.³² With none of the criteria for reprisals fulfilled, Germany was, according to Kalshoven, definitely in the wrong, and indeed was the perpetrator of violations against the laws of war.³³

This was not, however, the prevalent view before 1945. Hall writes that it might sometimes be necessary, however repugnant the thought might be, to use reprisals against innocent civilians when the actual perpetrators of offenses cannot be found. The important question dealt with by the Nuremberg IMT was that of the nature of the reprisals, that Germany had not fulfilled the criteria for reprisals, like those of proportionality and investigation into the offense, etc. The main objection by the IMT was the practice of the German High Command to issue orders containing fixed ratios of civilian hostages to be killed for every German soldier killed or injured. This is illegal, according to the IMT.³⁴ Killing 10 or 50 hostages as reprisal against the death of one German soldier is far from being proportionate; it is excessive. Hostage-taking is a part of reprisals, a step before anyone is killed. There has to be a clear difference made between hostages and reprisal upon prisoners. The former are taken before the reprisal is ordered, and the latter is taken as a result of the ordering of the

³² Ibid., p. 209-210.

³³ Ibid., p. 221.

³⁴ A. R. Albrecht, "War Reprisals in the War Crimes Trials and in the Geneva Conventions of 1949", *American Journal of International Law*, Vol. 47, 1953, p. 606.

reprisal.³⁵

It is interesting to note that it was the victorious side which had benefited from the efforts of the various resistance movements, and was thus positively inclined towards them, which pushed for their legalization and recognition.³⁶ A new practice was created in Nuremberg, allowing for civilians to organize themselves into resistance groups against an occupying power. This new practice gave a very broad and vague right to civilians, which in the long run was not a durable solution for the international community. For that, the next paragraph will tackle the Geneva Conventions that gave improved versions of many existing rules and fulfilled lacunae that practice had brought to light.

2.2.2 The Geneva Conventions

Following the ending of WWII and the Nuremberg trials, discussion ensued on the existence and legality of organized resistance. It was quite obvious to all parties that resistance was a reality that could not be ignored. The question then, was how to address this phenomenon.

A fundamental question in dealing with the right to resistance was the

³⁵ Trial of Albert Kesselring, Law-Reports of Trials of War Criminals, The United Nations War Crimes Commission, Volume VIII, London, HMSO, 1949, p. 14.

³⁶ G. V. Glahn, *The Occupation of Enemy Territory*, US, University of Minnesota Press, 1957, p. 52.

definition of a combatant. This is also the area that causes the most difficulty, because of the clandestine nature of resistance movements.

Two major questions have been developed at this stage:

1. Who is considered part of the civilian population to be protected as such?
2. Who is encompassed by the rules of war and engagement thus entitled to prisoner of war status?

Due to the relatively vague regulations in the HCR, and due to the fact that resistance movements are not even mentioned therein, the international community felt that a debate was needed in order to clarify exactly what criteria need to be fulfilled in order for resistance groups to be regarded as lawful belligerents. Discussions were long and arduous at the Diplomatic Conference in Geneva in 1949, with ideas and suggestions going back and forth between the delegates. It soon became clear that there were two camps: the larger States, potential future Occupying Powers, wished for more extensive regulations, while smaller States, potentially occupied states, felt that resistance movements should not be held to a higher standard than regular armed forces.³⁷

The Conference based its discussions on a Draft Convention

³⁷ Final Record of the Diplomatic Conference of Geneva, Geneva, Vol. II: A, 1949, p. 468.

prepared in Stockholm in 1948 related to the definition of combatants. The Stockholm Draft Convention stated in its article 3:

“Prisoners of war, in the sense of the present Convention, are persons belonging to one of the following categories, who have fallen into the power of the enemy: [...]

6. Persons belonging to a military organization or to an organized resistance movement constituted in an occupied territory to resist the occupying Power, on condition:

a. That such organization has, either through its responsible leader, through the government which it acknowledges, or through the mediation of a Party to the conflict, notified the occupying power of its participation in the conflict.

b. That its members are under the command of a responsible leader; that they wear at all times a fixed distinctive emblem, recognizable at a distance; that they carry arms openly; that they conform to the laws and customs of war; and in particular, that they treat nationals of the occupying Power who fall into their hands in accordance with the provisions of the present Convention”.³⁸

The Stockholm Draft Convention suggested that, apart from fulfilling the four criteria taken from the HCR, an organized resistance movement should notify its opponents of its intent to fight. The UK delegate explained that this last norm had not been seen as necessary in the HCR, because it was assumed at the time that belligerent Parties, who were all supposed to be government controlled (or at least recognized by the government), were capable of communicating.

³⁸ Final Record of the Diplomatic Conference of Geneva, Geneva, Vol. I, 1949, p. 74.

The USSR, supported by Hungary, felt that this extra norm would become very difficult to prove in practice, and might become subject to arbitrary interpretation.³⁹ The Netherlands argued that the ability to communicate was implicit in the criterion “under the command of a responsible leader,” and that any extra regulations would only increase the difficulty for resistance movements to comply with the rules.⁴⁰

In the end, the suggested rule on communication was deleted, but instead, a criterion was added, requiring militias, volunteer corps, and organized resistance movements to “belong to a Party of the conflict”; that is, to be in some way associated with one of the belligerent Parties. The relationship does not have to be close, but there has to be a *de facto* association.⁴¹

Articles 33 - 34 GCIV dealing with reprisals, forbids the use of reprisals against civilians and the taking of hostages. The rule on hostages was suggested by the Stockholm Draft Convention, and was passed at the Geneva Convention without discussion.⁴² The question of reprisals was discussed, although briefly. Article 50 HCR did not exclude the possibility of collective sanctions for individual acts for

³⁹ Ibid., p. 428.

⁴⁰ Ibid., p. 429.

⁴¹ International Committee of the Red Cross, Commentary to GCIII, Geneva, 1949, p. 57.

⁴² Final Record of the Diplomatic Conference of Geneva, Geneva, Vol. II: A, 1949, p. 651.

which populations might be considered collectively responsible. This meant that reprisals like the ones performed by Germany during WWII were allowed (except for the problem of proportionality). The Italian delegate stressed that this principle was alien to Roman law, and had led to many abuses during WWII. He felt that it was very important to introduce this principle to the International Humanitarian Law, to prevent future atrocities.⁴³

With the enactment of the four Geneva Conventions, all individuals affected by war were protected. That is, combatants were included under GC I-III and civilians under GCIV. There was no longer room for unclear situations, or situations where an individual suddenly was not covered by any rules at all. This had been the dilemma of resistance movements up until the Geneva Conventions: they were neither accepted as civilians nor as combatants. With clear lines drawn between civilians and combatants, these individuals were also protected. If they fulfilled the four criteria in Article 4.A.2 GCIII, they were considered as combatants. If they did not fulfill the criteria, they were considered as civilians, albeit as civilians who had broken national laws (murder, sabotage, etc) during their clandestine operations.⁴⁴

⁴³ Ibid., pp. 648-649.

⁴⁴ A. Roberts, *Occupation, Resistance, and Law*, Oxford University, University Press, 1951, p. 156.

The term “unprivileged belligerency” was introduced in 1951, covering individuals who were recognized as not committing a crime according to international law, but whose offenses were against the regulations of the occupant.⁴⁵ Baxter wrote in 1951:

“As long as partisan warfare is inspired by genuine allegiance rather than a desire for pillage and as long as guerrilla activities are looked upon as licit and laudable by the state on whose behalf they are undertaken and by third parties to the conflict, it is highly unreal to regard them as internationally criminal.”⁴⁶

2.2.3 Post Geneva Conventions

The characteristics of war have changed dramatically since WWII. Already, during WWII, partisan warfare was becoming an accepted concept, and during the post-war years it has become the dominant form of warfare.

The post-war period has been seen as the era for self-determination; around the world, colonies fought for freedom and national liberation, and political revolutions changed the map of the world. These wars were fought on the basis of ideologies, involving the civilian population to a much larger degree than ever before. This was due to the population becoming much more aware of their rights and wishes than they had been, and an increased willingness to

⁴⁵ Ibid., p. 149.

⁴⁶ R.R. Baxter, So-called “*unprivileged belligerency: spies, guerrillas, and saboteurs*”, British Yearbook of International Law, 1951, p. 337.

engage in military conflicts to assert their rights. Guerrilla wars were often started by small bands of partisans joining together to harass the oppressor (the government or colonial power). This happened alongside with ideological malcontent amongst the civilian population, who very often aided and protected the partisans.

It could be argued that the very nature of resistance movements gives them a very large chance of success, providing, however, that they have the support of the civilian population.⁴⁷ Resistance warfare, as named also guerilla warfare, is most often fought in remote areas, where small groups can operate to their best advantage. The members of the bands usually have very good knowledge of the terrain and are light and mobile, giving them an extra edge against the enemy forces. They depend on the civilian population for food and other resources, but on a much more direct level than large armies: if the resistance movement is supported by civilian population, there would be no shortage of food or protection.

The capability of resistance movements to show up from nowhere, attack enemy forces, and then disappear could be a potential source of frustration to army commanders. Although this scenario may upset regular troops, these actions are, by themselves,

⁴⁷ M. Walzer, *Just and Unjust Wars. A Moral Argument*", New York, Basic Books, 2000, p. 185.

not contrary to humanitarian law, and should not be a reason for depriving the partisans of the right to combatant status. If the enemy consisted of regular troops, an ambush by them would be part of combat; the same should apply for an ambush by resistance movements. It could be argued that the fact that guerrillas usually do not carry their arms openly, and do not wear distinct insignia, in an ambush situation, not change anything. The government forces would know who their attackers were as soon as the ambush began, it would make no difference if the enemy were wearing uniform or not.⁴⁸

Gerhard Glahn argued in his book (*The Occupation of Enemy Territory*) that the rules established in 1949 were unrealistic and impractical, since no guerrilla force would care to jeopardize its position and risk pursuit by the enemy by fulfilling all the criteria. He agreed that all forces, regular and guerrilla must follow the rules of war, but he felt that the demands of insignia and visible weapons were too rigid:

“...If such a band, pledging its allegiance to the lawful sovereign and operating in accordance with the rules of war except for insignia and open display of weapons, seeks to drive the Occupying Power’s forces out of the occupied territory, then such a group should be included among the categories of individuals entitled to the status of lawful combatants.”⁴⁹

⁴⁸ Ibid.,p. 182.

⁴⁹ G. V. Glahn, *The Occupation of Enemy Territory*, US, University of Minnesota Press, 1957, p. 52.

This brings forth the issue of the difference between group and individual conditions to be fulfilled, explaining why regular troops are treated differently from resistance movements and militias. The demands for internal organization, belonging to a Party to the conflict, and commanded by a responsible person are, according to Draper, criteria applicable to the group collectively, while the conditions of wearing distinctive insignia, carrying arms openly, and operating according to the laws of war are both collective and individual conditions.⁵⁰ If a resistance group fulfils all the criteria, but an individual guerrillero fails to carry his arms openly, the individual may, if he is captured by the enemy, be tried as a POW for failing to wear his arms visibly. But he does not lose his identity as a member of a resistance movement that recognizes and fulfils the requisite criteria. If, however, the majority of individuals in the group fail to distinguish themselves from civilians, then the whole group fails to attain combatant status.⁵¹

It is the neglect of partisan groups to wear distinctive signs and carry arms openly which is the point of conflict, or rather the groups' ability to hide amongst civilians when not conducting operations.

How are the forces of the government to fight these groups if

⁵⁰ G.I.A.D. Draper, "*The Status of Combatants and the Question of Guerrilla Warfare*", London, British Yearbook of International Law, 1971, p. 196.

⁵¹ *Ibid.*, p. 197.

they cannot find them? The author, Michael Walzer, suggests that perhaps one should look less at the obligations of resistance movements, and more at the obligations of the civilian population. He suggests that the right of the population to spontaneously take up arms at the approach of the enemy should pass over to the resistance movements who have the support of the population. His argument is based on the idea that regular troops act as political instruments, and that partisans, as long as they enjoy the support of the population, should be seen in the same manner; thus enjoy the protection of the Geneva Conventions. If the guerrillas operate against popular support, they would instead be regarded as regular bandits.⁵²

This viewpoint may be a bit radical, but it illustrates the problematic situation that arose when there was no adequate regulation of the position of resistance movements and guerrillas. It was obvious that a review of existing international humanitarian law was needed.

2.2.4 Additional Protocol 1 to the Geneva Conventions

One of the main questions raised by the Diplomatic Conference in Geneva 1974-77 was that of the classification of wars of national liberation. Were they to be regarded as international or

⁵² M. Walzer, *Just and Unjust Wars. A Moral Argument*, New York, Basic Books, 2000, p. 185

internal armed conflicts? While the Western states traditionally regarded such conflicts as internal, since the goal was to create independent states, most Third World governments felt that the conflicts were international, since they were fighting a colonial power which had invaded and occupied their territory. This was a very intense political question at the time, owing to the number of wars of national liberation that were being then fought. It became less a question of adapting the rules of war to reality, rather a propaganda tool to be used by or against the Western, colonial powers.

The UN General Assembly, in its 1973 Resolution 3103, had recognized wars of national liberation against alien domination as international armed conflicts. Furthermore, pt 4 of the resolution states:

“The combatants struggling against colonial and alien domination and racist regimes and captured as prisoners are to be accorded the status of prisoners of war and their treatment should be in accordance with the provisions of the [GCIII].”⁵³

The resolution confirmed that colonial powers had no rights of sovereignty over colonial territories and peoples. Although the General Assembly resolution was not fully approved, it shows the direction the discussions on self-determination and wars against

⁵³ UN GA Res. 3103 (XXVIII), 12 December 1973.

colonial domination were taking. However, the subject was not fully settled, and long discussions ensued at the 1974-77 Diplomatic Conference in Geneva on the incorporation of these ideas into binding law.

The discussions surrounded the wording of Article 1 regarding the scope of the Protocol. Six amendments were submitted to the proposed Article, all but one mentioning fight against colonial and alien domination and the right to self-determination. These amendments were mainly submitted by African and other Third World countries.⁵⁴ The remaining amendment, put forth by several developed countries⁵⁵ did not mention this form of conflict, but instead suggested adding a version of the “Martens clause”.⁵⁶

Many Third World countries, like Nigeria and Tanzania, were enthusiastic and supportive of the proposed Article. They emphasized that the aim of the Diplomatic Conference was to develop international humanitarian law from the 1949 Geneva Conventions, which had not taken into account wars of national liberation because such had barely existed before the 1950s.⁵⁷ Furthermore, since

⁵⁴ Official Records of the Geneva Diplomatic Conference, Geneva, vol. III, 1974-1977, pp. 5-9.

⁵⁵ Argentina, Austria, Belgium, West Germany, Italy, the Netherlands, Pakistan, and the United Kingdom.

⁵⁶ Official Records of the Geneva Diplomatic Conference, Geneva, vol. III, 1974-1977, p. 6.

⁵⁷ Official Records of the Geneva Diplomatic Conference, Geneva, vol. VIII, 1974-1977, p. 13.

several international instruments had recognized wars of national liberation as international armed conflicts (for example, the Friendly Relations Declarations and the above-mentioned UN General Assembly Resolution 3103), it was necessary that the proposed Protocol should reflect the present reality. The main objection against the proposed amendments was their making the motives behind a conflict a criterion for the application of international humanitarian law.⁵⁸ Legal and humanitarian protection should never vary depending on the motives of those fighting in the particular conflict.⁵⁹ It must be made clear, according to the delegate from France, that there were two concepts in the game, a legal and a political idea. The job of the Diplomatic Conference was providing adequate protection for all war victims at all times, something that should not so easily be influenced by political flows.⁶⁰

Finally, an amendment was suggested, amalgamating the different amendments and including both a reference to colonial domination, alien occupation, and a reference to the Martens clause.⁶¹ The proposed amendment was put to a vote and passed.⁶² However,

⁵⁸ Official Records of the Geneva Diplomatic Conference, Geneva, vol. VI, 1974-1977, p. 46.

⁵⁹ Official Records of the Geneva Diplomatic Conference, Geneva, vol. VIII, 1974-1977, p. 13.

⁶⁰ *Ibid.*, p. 14.

⁶¹ *Ibid.*, p. 8-9.

⁶² 70 votes for, 21 against, 13 abstentions. Most of the states voting against the amendment or abstaining were Western states. *Ibid.*, p. 102.

all were not satisfied with the procedure, and felt the amendment had not been discussed enough. It was felt that the point of having the motives of a struggle decide whether the conflict is of international or internal character was wrong and went against the spirit of the Geneva Conventions and the principle of nondiscrimination.⁶³ Those voting for the amendment reiterated their strong belief that wars against colonial domination and alien occupation must be encompassed by international humanitarian law and that it was a necessary step in legitimizing the right to self-determination.⁶⁴

The proposed Article 1 was put to a final vote in a plenary session of the Diplomatic Conference. The Article was adopted by 87 votes in favor, one against (Israel), and 11 abstentions (mainly Western countries).⁶⁵

The Diplomatic Conference also revised the definition of combatant, acknowledging the new character of modern-day conflicts. The four conditions laid down in the HCR are still present, in Article 43.1 AP1, which states:

... “[t]he armed forces of a Party to a conflict consist of all organized armed forces, groups and units which are under a command responsible to that Party for the conduct of its subordinates, even if that Party is represented by a government

⁶³ Ibid., p. 106.

⁶⁴ Ibid., p. 108.

⁶⁵ Official Records of the Geneva Diplomatic Conference, Geneva, vol. VI, 1974-1977, p. 41.

or an authority not recognized by an adverse Party. Such armed forces shall be subject to an internal disciplinary system which, inter alia, shall enforce compliance with the rules of international law applicable in armed conflict”.

Thus, the requirements of internal disciplinary system, commandment by a person responsible, and adherence to the rules of war are mentioned.

The third and fourth criteria, referring to carrying arms openly and wearing fixed distinctive signs, caused extensive debate at the Diplomatic Conference, as they go hand in hand with the principle of distinction, laid down in Article 48 AP1. This principle exists in the Geneva Conventions, but the delegates at the Conference wished to develop it further. Suggestions⁶⁶ were made regarding the rule of distinction as to encompass only the time the combatant spent in military operations, whilst other delegations wished to retain the condition of permanent distinction.⁶⁷ The discussions were long and arduous, until the article was remanded to a Working Group, which presented its suggestion to the plenary Conference.

According to this suggestion, combatants do not have to be clearly distinguished from the civilian population at all times; it is

⁶⁶ Amendments submitted by Poland, Finland, the Netherlands, and the UK and the US. Official Records of the Geneva Diplomatic Conference, Geneva, vol. III, 1974-1977, p. 181-184.

⁶⁷ Ex. Spain. Official Records of the Geneva Diplomatic Conference, Geneva, vol. XIV, 1974-1977, p. 323.

enough that they distinguish themselves while they are engaged in an attack or preparation for an attack. The article goes on, stating that if it is not possible for the combatant to distinguish himself this way, he must, at the very least, carry his arms openly during the operation and at any time be visible to the enemy while in preparation for the attack.⁶⁸

This was a manner of clarifying the existing vague regulations, satisfying the demands of the principle of distinction, whilst at the same time relaxing the pressures on resistance movements of fulfilling the conditions.⁶⁹ Experience showed that very strict directives for fulfilling combatant status did not deter individuals who were fighting for freedom.⁷⁰ They would pick up arms and engage enemy soldiers, whether they fulfilled the demands or not. It should rather be a policy to accommodate for this reality, to

⁶⁸ Article 44.3 API. The exact text reads: "In order to promote the protection of the civilian population from the effects of hostilities, combatants are obliged to distinguish themselves from the civilian population while they are engaged in an attack or in a military operation preparatory to an attack. Recognizing, however, that there are situations in armed conflicts where, owing to the nature of the hostilities an armed combatant cannot so distinguish himself, he shall retain his status as a combatant, provided that, in such situations, he carries his arms openly: (a) During each military engagement, and (b) During such time as he is visible to the adversary while he is engaged in a military deployment preceding the launching of an attack in which he is to participate."

⁶⁹ K. Suter, "*an International Law of Guerrilla Warfare*", Palgrave Macmillan, 1984, p. 164.

⁷⁰ G.I.A.D. Draper, "*The Status of Combatants and the Question of Guerrilla Warfare*", London, British Yearbook of International Law, 1971, p. 214.

encourage these individuals and these groups to fulfill the criteria.⁷¹ Although the article was adopted, as Article 44,⁷² it was still controversial, leading several States to abstain from voting, and Israel to vote against it. Israel's interpretation of the article was literal, indicating that such a liberal view of the principle of distinction would lead to an increase of terrorist acts. The delegate exemplified the problem by suggesting that a terrorist in civilian clothes who was about to set off a bomb was not in fact bearing arms, and was not obliged to distinguish himself from the civilian population because in his case there was no organized "deployment" preceding his attack.⁷³

Other delegates were not as gloomy in their predictions on the impact of the article, and instead welcomed the more humane regulations, which would give resistance movements a chance and an incitement to fulfill the criteria and be acknowledged as combatants. It was imperative that the principle of distinction should remain intact in order to protect civilians, but the protection of and adherence to the rules of war by all combatants, regular and irregular, was also of the utmost importance.⁷⁴

⁷¹ It has been put forth that guerrilla groups strive to become a unit, both factually and morally; they endeavor to find a common identity, and often use uniforms, etc., to achieve this unity. M. Walzer, *Just and Unjust Wars*, p. 182.

⁷² The draft Article passed by 73 votes to one, with 21 abstentions. Official Records of the Geneva Diplomatic Conference, Geneva, vol. VI, 1974-1977, p. 121.

⁷³ *Ibid.*, p. 122.

⁷⁴ *Ibid.*, pp. 124-126.

One final regulation with direct relevance to resistance movements was introduced by Article 96.3 of the Additional Protocol. This article gives resistance movements and movements fighting colonial domination and alien occupation the opportunity to make a unilateral declaration stating that they will adhere to the Geneva Conventions and the Additional Protocol. Although these groups are not States, and can therefore not be Parties to the Protocol, the possibility of making such a declaration raises the credibility of the movement and increases the safety of the civilian population. Both parties to the conflict are then officially operating by the same rules, and the risk for discrepancies diminishes.

2.2.5 The Additional Protocol today

Despite the overwhelming success of the Additional Protocol in modernizing the laws of war, there were a number of states that still felt that the Protocol did not sufficiently fulfill its promises. Today, 163 states are Parties to the first Additional Protocol, leaving 29 states that find enough faults with the Protocol and did not ratify it.⁷⁵

As stated in the preceding chapter, Israel refused to sign the

⁷⁵ Afghanistan, Andorra, Azerbadjan, Bhutan, East Timor, Eritrea Fiji, Haiti, India, Indonesia, Iran, Iraq, Israel, Kiribati, Malaysia, Marshall Islands, Morocco, Myanmar, Nepal, Pakistan, the Philippines (only party to APII), Singapore, Somalia, Sri Lanka, Sudan, Thailand, Turkey, Tuvalu, USA. ICRC homepage

Additional Protocol, and has still not changed its position. Its arguments against signature and ratification are mainly due to the main subject of this thesis: the definition of combatant and the acceptance of resistance movements as such.⁷⁶ Israel felt the language in Article 1 was too political, which had no place in such a document. Furthermore, Israel felt that the wording of Article 44 was fundamentally flawed, consequently it could not accept the statement that there were situations in armed conflicts where combatants could not distinguish themselves from civilians, however qualified and limited. In the end, Israel did not sign the Final Act of the Conference.⁷⁷

The United States signed the Final Act and the Additional Protocol⁷⁸ in 1977. In 1987, however, President Reagan notified the US Senate that he would not submit API for the Senate's advice and consent for ratification, because he felt the Protocol was "fundamentally and irreconcilably flawed." As expressed already in 1977 at the Diplomatic Conference, the United States felt it was

⁷⁶ Official Records of the Geneva Diplomatic Conference, Geneva, vol. VI, 1974-1977, p. 216-7.

⁷⁷ This was mainly due to the fact that movements of national liberation, which had been invited to participate in the Diplomatic Conference, also had been invited to sign the Final Act. Israel's main objection was that the PLO was invited to sign. Official Records of the Geneva Diplomatic Conference (1974-1977), vol. VI, p. 216.

⁷⁸ Adding an understanding that "the phrase 'military deployment preceding the launching of an attack' in Article 44.3 means any movement towards a place from which an attack is to be launched". D. Murphy "*Contemporary Practice of the United States*", American Journal of International Law, Vol. 72, 1978, p. 407.

wrong to automatically treat wars of national liberation as international conflicts, as a result of the moral qualities of each conflict. Furthermore, the United States was still not satisfied with the revised principle of distinction, saying it would endanger civilians among whom terrorists and other irregulars would try to conceal themselves.⁷⁹

Several authorities, particularly the ICRC, have criticized this decision, saying that the Additional Protocol codifies what has become customary international law.⁸⁰ The inclusion of wars of national liberation is something that had been in the works for some time (see for example the Friendly Relations Declaration⁸¹), and the Additional Protocol does not provide support for terrorism. On the contrary, the Protocol is adamant in its position that terrorist acts should be punished.⁸²

The United States' position regarding the Additional Protocol serves as an example of the confusion surrounding the treaty and international humanitarian law. Arguments that are readily accepted by some states are just as readily rejected by others, and the motives

⁷⁹ Ibid., p.408.

⁸⁰ H.P. Gasser, "*An Appeal for Ratification by the United States*", American Journal of International Law, Vol 81, 1987, p. 916.

⁸¹ Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in Accordance with the Charter of the United Nations.

⁸² G.H. Aldrich, "*Prospects for US Ratification of Protocol I*", American Journal of International Law, Vol 85, 1991, p. 10.

behind different states' ratification vary greatly. Although we may believe that the status and rights of resistance movements in international humanitarian law has been regulated satisfactorily, difficulties will certainly arise when these rules are to be applied in practice.

2.3 The Concept of Occupying Power

This part summarizes the rights and duties of the Occupying Power. However, it is necessary to, at least, mention these rights and duties to better explain when and how resistance movements emerge, and when the Occupying Power does not fulfill its duties according to existing International Law.

Before the nineteenth century, an occupation generally entailed complete annexation of the occupied territory, i.e., the occupied territory became an integrated part of the state that conquered it. This practice changed over time, and today occupied territory is at all times considered part of its original State, no matter how long the occupation lasts. The Occupying Power must administer the area while in it, and ensure that the regular day-to-day life of civilians in the occupied territory may continue as normally as possible.

At the outset, there must be a clear definition as to when a territory is occupied. This is regulated in Article 42 of the Hague

Regulations, which states the need for a *de facto* occupation, i.e. that the territory in question must be actually placed under the authority of the hostile army. The occupation does not reach further than the area where the authority of the Occupying Power has been established and where this authority can be exercised.

2.3.1 Obligations and Rights of the Occupying Power

When looking at the rules of occupation, it is important to remember that, since the occupied area still remains part of its original State, the inhabitants of the occupied territory are not bound by any allegiance to the occupying State and may not be forced to swear allegiance.⁸³ Their allegiance remains with the occupied state, and the occupied territory does not fall under the sovereignty of the occupying power, like it used to in past centuries.

This means that the Occupying Power has a twofold obligation. On the one hand, the Occupying Power shall take all the measures in its power to restore, and ensure, as far as possible, public order and safety; and on the other hand, in doing so it must respect, unless absolutely prevented, the laws in force in the country.⁸⁴

The duties of the Occupying Power basically concern the rights of the civilian population to continue living their lives as normally as

⁸³ Article 45 of the Hague Convention Regulations Respecting the Laws and Customs of War on Land annexed to The Hague (IV) Convention (HCR).

⁸⁴ Article 43 HCR.

possible under the circumstances. Thus, the administration of the occupied territory by the Occupying Power is compelled to ensure that the basic needs of the population are fulfilled. Deportation and forcible mass transfers are always forbidden.⁸⁵ However, other infringements on peoples' right to move freely may be undertaken, if demanded by imperative military reasons or for the security of the population.

The occupying power has an obligation to ensure that the civilian population is clothed and fed, that it has access to medical aid and supplies,⁸⁶ that the spiritual needs of the population are met,⁸⁷ that children have access to schools,⁸⁸ and that public order and safety is maintained.

Since the civilian population (and, of course, the occupation forces) need clean water, electricity, and a working infrastructure, the occupying power must do all in its power to ensure the availability of such services. The occupying power does not have to use its own national funds and resources to finance the administration of the occupied territory. It has access to the occupied state's funds and may levy taxes, but may only use these funds to ensure that the infrastructure of the occupied territory is intact and that the

⁸⁵ Article 49 Geneva Convention IV (GCIV).

⁸⁶ Article 55 GCIV.

⁸⁷ Article 58 GCIV.

⁸⁸ Article 50 GCIV.

administration of the area is operational.⁸⁹ No funds, property or individual of the occupied territory may be used in the occupying power's military efforts.⁹⁰ As stated above, the role of the occupying power is that of administrator, not sovereign ruler. As such, it shall work to facilitate as much as possible the return of the administration of the occupied territory to its sovereign authorities as soon as possible after the close of hostilities.

The legislation of the occupied territory shall remain in force and may not be repealed or suspended by the occupying power, unless the legislation constitutes a threat to the occupying power or if it is an obstacle to the execution of Geneva Convention IV.⁹¹ Further, new penal legislation may only be introduced to enable compliance with GCIV, to maintain the orderly government of the occupied territory and to ensure the security of the occupying power.⁹²

The occupying power has the discretion to remove any judge or public official from office as it pleases.⁹³ If, however, it chooses not to do so, public officials and judges must be allowed to continue to carry out their duties, without interference, harassment or

⁸⁹ Article 48-49 HCR

⁹⁰ Article 51 GCIV, Article 23 HCR.

⁹¹ Article 64.1 GCIV.

⁹² Article 64.2 GCIV.

⁹³ Article 54 GCIV

discrimination by the occupying power.⁹⁴ As long as the occupying power retains the occupied territory's courts, it is bound to respect the independence of the courts and their judges.⁹⁵ In the same way that judges and public officials should be free to work, they must also be allowed to leave their posts if they cannot continue for reasons of conscience. Here, too, the occupying power must refrain from harassment and discrimination. Even though these individuals are employed by the occupying power, their principal allegiance is to their sovereign, which takes precedence in such cases.⁹⁶

However, the matter of resignation because of reasons of conscience becomes more complicated when read in conjunction with Article 51 GCIV. This Article enumerates the areas of work where the occupying power may compel civilians to work. Any civilian over 18 may be compelled by the occupying power to help with the needs of the occupation forces, public utility services, or with feeding, sheltering, clothing, transportation or health of the civilian population. As stated above, the work shall not entail any labor that would aid the military operations of the occupying power in any way. One question that arises is where the line shall be drawn between work deemed necessary for the maintenance of the occupation forces,

⁹⁴ Article 54 GCIV, Commentary to GCIV, p. 304.

⁹⁵ Commentary to GCIV, p. 304.

⁹⁶ *Ibid.*, p.305.

and work benefiting the Occupying Power's belligerent forces. Permitted work would entail road repairs, laying telephone lines, etc., while constructing fortifications and aerial bases would not be permitted.⁹⁷

In light of the occupying power's fundamental obligations set forth in Article 43 HCR, there will be a need for labor within the public sector, i.e., for jobs dealing with health, education, water and power supplies, and peace and security of the population. For example, since the occupying power has a duty to ensure and maintain the functions of hospitals, etc., the occupying power has a right to compel doctors, nurses and other individuals tied to these areas to work. However, the occupying power may not assign any individual to a workplace far from where they lived and worked up to that point.⁹⁸ This is in line with the prohibition of transfers in Article 49 GCIV.

Since judges and public officials are needed for the occupying power to be able to fulfill its obligation, it is uncertain whether the occupying power's right to compel individuals to work takes precedence over judges' and public officials' right to resign for reasons of conscience. The commentary to this article states a

⁹⁷ *Ibid.*, p. 294.

⁹⁸ Article 51.3 GCIV.

preference for this solution, noting that judges and public officials should, at the very least, feel a moral obligation to remain at their posts to work for the good of their country and its inhabitants.⁹⁹ The occupying power must, however, ensure the independence and freedom of these individuals.

2.3.2 Article 6, Geneva Convention IV: Beginning and end of application - the 'one-year rule'

The rules in GCIV relating to occupation begin to apply as soon as the territory is occupied by a hostile power.¹⁰⁰ The difficulty arises in determining when GCIV ceases to apply. There were prolonged discussions on this question at the Diplomatic Conference in Geneva in 1949, where some states advocated an official end of hostilities, i.e., a peace treaty, to signal the end of application,¹⁰¹ while others wanted a more flexible solution.¹⁰² Discussions ensued on how to define the end of hostilities. It was finally agreed that the general close of military operations means “when the last shot has been fired.”¹⁰³ It was also decided that the nature of an occupation was such that all rules of GCIV need not apply for the duration of the

⁹⁹ Commentary to GCIV, p. 306.

¹⁰⁰ “Territory is considered occupied when it is actually placed under the authority of the hostile army”; Article 6 GCIV, Article 42 HCR.

¹⁰¹ Final Record of the Diplomatic Conference of Geneva, Geneva, Vol. II: A, 1949, p. 624.

¹⁰² Ibid., p. 625.

¹⁰³ Ibid., p. 815.

occupation. As has been seen through history, an occupation can continue for a very long time, depending on when hostilities ceased and on the speed of reconstruction of the occupied territory by the Occupying Power. However, at the end of hostilities, i.e. when the last shot has been fired, the Occupying Power is obliged to begin extensive work to prepare for handing over administration of the territory to its sovereign ruler. This must be done as quickly as possible, with regard to both the Occupying Power and the occupied territory itself and its inhabitants. The line has been set at one year after the general close of military operations, after which only certain rules continue to apply.¹⁰⁴ The most specific rules, regarding acute measures to be taken for the safety and health of the civilian population, cease to apply once reconstruction has begun. Thus, certain provisions of GCIV are only of importance during the conflict itself.¹⁰⁵ For example, the entire section on Regulations for the Treatment of Internees¹⁰⁶ is only applicable during and immediately after the hostilities.

The general close of military operations is supposed to entail a return to normality. The Occupying Power may not just pack up and leave as soon as the fighting is over, but is, at the same time, not

¹⁰⁴ These rules are enumerated in Article 6 GCIV.

¹⁰⁵ Final Record of the Diplomatic Conference, Geneva, Vol. II:A, 1949, p. 816.

¹⁰⁶ Articles 79-141 GCIV.

obliged to remain an Occupying Power longer than absolutely necessary. When the acute needs of the civilian population are taken care of, and the infrastructure of the territory is restored, it is in the interest of both Parties that administration return to the original sovereign.

To parties to the Additional Protocol to the Geneva Conventions, Article 3.b API replaces Article 6 GCIV. According to Article 3.b, the entire Protocol is applicable during the entire occupation that is Articles 42-56 HCR regarding occupation apply for the duration of the occupation.

As this chapter highlighted the definitions and rules of resistance movements and occupying powers as stated in international law and tinted their related right and duties, the next chapter will analyze the theoretical and practical applications of such definitions and rules.

Chapter 3

Theoretical and Practical Applications of the Rules of Resistance and Occupation

The right to self-defense is a long-established right between sovereign states. In the twentieth century, the most notable expression of this right has been in Article 51 of the United Nations Charter. However, this relates only to the rights of states to self-defense.¹⁰⁷ How do individuals protecting their homes or individuals repelling enemy forces, etc. fit into the picture? What rights do they have?

3.1 WWII and Resistance in Europe

The legal notion of a resistance movement or a guerrilla fighter is a relatively new one. It is not until the twentieth century that these groups really have been accepted as a (legitimate) phenomenon of armed conflicts.

Until the second half of the nineteenth century wars were, for the most part, conducted between the regular armies of two sovereign

¹⁰⁷ G. V. Glahn, "*The Occupation of Enemy Territory*", US, *The Yale Law Journal*, Vol. 67, No. 2, 1957, p. 53

monarchs, the stage being set on a battlefield. Civilians were not often directly involved in the actual hostilities, although they were victims of the belligerent armies' advances through the land. Any individual who was not part of the regular army but who resorted to violence against the opponent was surely punished severely, most probably by death.

Things began to change, however, during the Napoleonic wars, when both Spanish and Russian civilians began spontaneously rising against the advancing French army. These groups were only loosely organized, but succeeded in harassing the French troops and delaying their advance. These activities were, of course, illegal in the eyes of the French army, and any individual caught was summarily executed.¹⁰⁸

During the American Civil War, the same tendencies could be seen among the Southern population. Thus Francis Lieber,¹⁰⁹ in his *Instructions for the Government of Armies in the Field* (the Lieber Code), warned against guerrilla parties, saying that they were, in essence, outlaws conducting extortion and destruction, and generally

¹⁰⁸ G.I.A.D. Draper, *'The status of combatants and the question of guerrilla warfare'*, British Yearbook of International Law, 1971, p. 177.

¹⁰⁹ Dr Francis Lieber, of German origin, was asked by the chief command of the Union Army during the American Civil War, to compile a set of instructions of rules and usages of war. Dr Lieber was a professor at the University of South Carolina until the Civil War.

giving no quarter to soldiers opposing them.¹¹⁰ He warned against these bands' habit of picking up and laying down weapons at their convenience, assuming the pose of a civilian, and recommended that they be treated as they always had been in Europe, namely as brigands.¹¹¹ Civilians who rose against an occupation were not to be recognized as prisoners of war.¹¹²

The Brussels Conference of 1874 was the first real effort in attaining an international consensus on what was permissible and what was forbidden in war. Official opinion on the matter had begun to sway, partly because of the nature of the recent conflicts and the emergence of smaller states in Europe. Also, thoughts of democracy were gaining momentum, putting the population more and more in the center.¹¹³ In the area of occupation and resistance to occupation, attitudes were beginning to change. First and foremost, occupation no longer automatically led to annexation of the territory.¹¹⁴ It was

¹¹⁰ G.B. Davis, "Doctor Francis Lieber's Instructions for the Government of Armies in the Field", *American Journal of International Law*, 1907, pp. 15-18.

¹¹¹ *Ibid.*, 18.

¹¹² Article 85 of the Lieber Code. I.P. Trainin, "Questions of Guerrilla Warfare in the Law of War", *American Journal of International Law*, 1946, p. 537. Relevant to note is that Lieber wrote the code for the Union side. The potential situation of occupation he envisaged was that of Northern occupation of the South and thus he authored rules to the benefit of Union troops. It would be interesting to see what his recommendations would have been, had he been allied with the Confederacy.

¹¹³ For example, Engels wrote to Marx in 1870: "Everywhere that a people permitted its subjugation only because its army was not able to provide opposition it has been treated with general scorn, as a nation of people in loincloths; and everywhere that the people carried on guerrilla warfare energetically the enemy very quickly was convinced that it was impossible to be governed by the ancient code of blood and fire." *Ibid.*, p. 540.

¹¹⁴ *Ibid.*, p. 542.

further admitted, that the civilian population could rise against the Occupying Power (although the right to do so was uncertain). The issue at stake, however, was the legal status of the individuals who rebelled. It had already been decided to divide a state's population into three categories: 1. the regular army, 2. irregular armed forces, and 3. civilians. The second category meant members of irregular armed forces who had not had time to organize themselves when the enemy came. It was implied that these forces would organize themselves and eventually become incorporated with the regular forces of the country.¹¹⁵

But what, then, of the right of individuals to rise against the Occupying Power? Opinions differed greatly between large countries with regular armies, and smaller countries with defenses based on a militia-style army. The differences arose from States' capabilities to mass their forces upon attack from an enemy. States with large, permanent armies were against the idea of the civilian population rising to defend their land, arguing that allowing anyone and everyone to rise with arms would result in a return to the barbarism of past centuries. States such as Holland and Switzerland, on the other hand, depended on civilians to act as a line of first defense,

¹¹⁵ Ibid., p. 541.

giving the government time to muster its forces.¹¹⁶

It was suggested by the US that an Article be added, in line with the Lieber Code, forbidding all uprisings.¹¹⁷ At the time, any temporarily successful revolt in occupied territory that was ultimately crushed led to a right of the occupant to use severe methods of punishment. They viewed these individuals' acts as violations of international law, allowing the Occupying Power to prosecute them as "war criminals" for "illegitimate hostilities in arms".¹¹⁸ The smaller countries refused to agree to this, pressing on every individual's right (and, in some cases, even a duty¹¹⁹) to defend themselves. They felt that there should not exist such a right, but the majority feeling at the time was for keeping the status quo, which meant that such individuals were classed as war rebels.¹²⁰

The Brussels Conference ended up not mentioning any right to rise against an Occupying Power, but recognized the right of smaller countries to employ militias and volunteer corps. The Conference laid down four criteria to be fulfilled by such corps:

"1. That they be commanded by a person responsible for his

¹¹⁶ L. Nurick & R.W. Barrett, "*Legality of Guerrilla Forces under the Laws of War*", in AJIL 1946, p. 565. I.P. Trainin, "*Questions of Guerrilla Warfare in the Law of War*", in AJIL 1946, p. 541.

¹¹⁷ R.R. Baxter, "*The Duty of Obedience to the Belligerent Occupant*", BYIL, 1950, p. 254.

¹¹⁸ Ibid., p. 254.

¹¹⁹ Ibid., p. 255.

¹²⁰ I.P. Training, "*Questions of Guerrilla Warfare in the Law of War*", AJIL, 1946, p. 542;

subordinates;

- 1 That they have a fixed distinctive emblem recognizable at a distance;
- 2 That they carry arms openly; and
- 3 That they conduct their operations in accordance with the laws and customs of war. In countries where militia constitutes the army, or form part of it, they are included under the denomination ' army.'"¹²¹

Further, *levées en masse*, or the spontaneous rising of civilians at the approach of the enemy, was recognized in Article 10, provided they respected the laws and customs of war and provided the territory was not already occupied. This was a concession to the smaller countries and their defense systems, but did not recognize such a right in already occupied territory.¹²²

Twenty-five years later, at the First Hague Conference in 1899, and later, at the Second Hague Conference in 1907, the question of risings was again taken up, but again there was no success in reaching a satisfactory consensus. The Conference actually began to indicate a return to the position held before the Brussels Conference, that war should be fought by legitimate forces recognized and led by a government, giving no room for smaller bands of individuals without official governmental ties.¹²³

¹²¹ Article 9 Brussels Convention, 1952.

¹²² I.P. Trainin, "Questions of Guerrilla Warfare in the Law of War", AJIL, 1946, p. 542.

¹²³ L. Nurick & R.W. Barrett, "Legality of Guerrilla Forces under the Laws of War", AJIL, 1946, p. 568.

The duty of obedience of the civilian population was still a widely held truism at the time of the Hague Conferences. It was thought that the civilian population should obey the Occupying Power, in return for protection. In the same way that the population had an obligation to the occupant, the occupant had an obligation to the population.¹²⁴ Only when this protection failed, if the “contract” between occupant and occupied were broken, would the population have the possibility to protest. The discussion was also motivated by the wish of larger states to protect their forces in the event of an occupation. By making a clear distinction between civilians and combatants, the occupying power could ensure that the civilians in the occupied territories truly were civilians and pacified, so that they entailed no threat to the occupying forces. Any civilians breaking these rules were severely punished. This situation was not regulated however in the Regulations annexed to the Hague (IV) Convention (HCR).

Article 1 of HCR restates the four conditions to be fulfilled by combatants enumerated in Article 9 of the Brussels Convention. What is new in the Hague (IV) Convention (and its annexed regulation) in relation to the Brussels Convention is the Preamble,

¹²⁴ Article 43 HCR. See also R.R. Baxter, *“The Duty of Obedience to the Belligerent Occupant”*, BYIL, 1950, p. 259.

which states:

“Until a more complete code of the laws of war has been issued, [...] the inhabitants and the belligerents remain under the protection and the rule of the principles of the law of nations, as they result from the usages established among civilized peoples, from the laws of humanity, and the dictates of public conscience” (the so-called Martens Clause).

This basically means that although the HCR does not regulate a certain phenomenon, it does not mean it is either forbidden or accepted. This makes it clear that the intention was not to shut out all resistors who didn't fall within the exact scope of Article 1 HCR; it is also a direct concession to smaller states, without officially recognizing the rights of resistance movements.¹²⁵ As will be seen in the next section, the effects were to be seen during WWII, when Germany interpreted the laws of war verbatim when dealing with organized resistance movements, while the Allies indirectly referred to the Martens Clause.

When looking at the development of resistance movements, the most interesting and eventful time is WWII. Never before had civilians been so affected by and involved in a war of such magnitude. WWII brought a shift in the consciousness of the civilian population toward active defense of their homes and their lives. As stated above, wars had previously mainly been fought by armies

¹²⁵ A. Roberts, "Occupation, Resistance and Law: International Law on Military Occupations and on Resistance", US, Journal of Peace Research, 1980, p. 124.

meeting on a set battlefield. Since the development of airplanes and weapons with farther-reaching range than before, it became possible to harass the enemy long before they actually met on the battlefield. This did not only disturb the enemy forces' advances and planned deployments, but also disrupted supply lines and destroyed arms manufactures. All this affected the civilian population to a large degree, since many civilians worked with the war effort in one way or another. But bomb raids on enemy cities were also intended to frighten the enemy and lower morale, demonstrating the belligerent's superiority.

The German occupation of the Netherlands, part of France, and of Norway and Denmark, sparked intense nationalistic feeling among the citizens of these countries. Everywhere, small groups of resistance did what they could to disrupt the activities of the occupying forces and to help fellow citizens that were under the pressure of the occupying power (mainly Jews and political dissidents). Although most of the governments of these States were working in exile, they supported the resistance movements in various ways, including airdropping weapons, forwarding military intelligence, and providing them with military commanders and other personnel.

As an occupying power, Germany was harsh, demanding

obedience and forbidding hostile political parties. Local police was ordered to support the actions of the occupying forces as well as those of any national organizations in support of Germany (for example, in Norway, where the Hird, Quisling's bodyguard force, harassed teachers, etc.).

3.1.1 Resistance in Denmark, Norway, the Netherlands, and France

3.1.1.1 Denmark

Germany advanced into Denmark in 1940 on the premise of protecting the country against an imminent invasion by the Allies. However, the neutrality and independence that was promised turned out to be a mere fabrication.¹²⁶ The Danish Government remained in power, but only nominally. For example, the Danish Ambassador in Washington refused to obey any orders issued by the Danish Government, stating that as long as the German occupation continued, Denmark was not a free and independent country.¹²⁷

The official Danish policy of collaboration prompted many civilians to organize themselves into resistance groups. However,

¹²⁶ J. Hastrup, "Denmark's Connection With the Allied Powers During the Occupation", in *European Resistance Movements 1939-1945: Proceedings of the Second International Conference on the History of the Resistance Movements*, Milan, 26-29 March 1961, p. 282-283.

¹²⁷ *Ibid.*, p. 285.

they did not receive any support from the Danish Government, but acted, for most of the occupation time, in defiance of official policy. The resistance movement gained momentum and finally gained de facto recognition by the Danish population and by the Allies, due to the fact that it only acted against the German occupation and not in pursuit of any individual political goals.¹²⁸

The de facto recognition of resistance movements by the British Government resulted in the establishment in 1940 of the Danish section of SOE (Special Operations Executive), a British organization for clandestine relations in Europe.¹²⁹ Actions by this group led to German reprisals, which in turn led to strikes and demonstrations all over Denmark. The ultimate result of these activities was that Germany took over administration of Denmark and the Danish Government ceased to exist.¹³⁰

3.1.1.2 Norway

Resistance in Norway consisted mainly of non-violent protest

¹²⁸ Ibid., p 288.

¹²⁹ The SOE had as its main objective the sabotage of the German war effort and the encouragement of resistance in areas occupied by Germany. F.W. Deakin, "*Great Britain and European Resistance*", in *European Resistance Movements 1939-1945: Proceedings of the Second International Conference on the History of the Resistance Movements*, Milan, 26-29 March 1961, p. 102.

¹³⁰ J. Haestrup, "*Denmark's Connection with the Allied Powers during the Occupation*", in *European Resistance Movements 1939-1945: Proceedings of the Second International Conference on the History of the Resistance Movements*, Milan, 26-29 March 1961, p. 291.

against the German occupation,¹³¹ since the Norwegian Nazi party (Nasjonal Samling, or NS), with Vidkun Quisling heading it, cooperated with the occupying forces in searching for and eliminating resistance in the countryside.¹³² Freedom of speech and the press was curtailed, and many labor and other organizations were reorganized with new leadership appointed by the NS. Faced with countrymen betraying them and the German occupying power coming down hard on its opposition, resistance leaders became very cautious in their actions.¹³³

The main Norwegian resistance movement was the MILORG, founded mainly by Norwegians who had participated in the initial defense against the German invasion. At first, MILORG was just a collection of small bands of civilians conducting surreptitious intelligence gathering and preparing for an eventual invasion by the Allies. Individuals of these groups who were caught by the occupying force were summarily executed, and these groups were often infiltrated by members of the NS.¹³⁴

¹³¹ N. Kogan, "American Policies towards European Resistance Movements", in *European Resistance Movements 1939-1945: Proceedings of the Second International Conference on the History of the Resistance Movements Held at Milan 26-29 March 1961*, p. 75.

¹³² *Ibid.*, p. ix.

¹³³ S. Kjelstadli, "The Resistance Movement in Norway and the Allies 1940-1945", in *European Resistance Movements 1939-1945: Proceedings of the Second International Conference on the History of the Resistance Movements Held at Milan 26-29 March 1961*, p.328.

¹³⁴ *Ibid.*, p. 75.

MILORG was recognized by the Norwegian government-in-exile in London and was supported by the British SOE.¹³⁵ The caution observed by MILORG in the beginning of the occupation eventually caused the British to send a letter accentuating the importance of sabotage against the Occupying Power.¹³⁶ The British supplied MILORG with equipment and training, which gradually enabled it to expand its field of sabotage and armed resistance. However, the main objective of MILORG remained the protection of industry and communications. Members of the organization were under orders not to unnecessarily provoke the occupying power.¹³⁷

3.1.1.3 The Netherlands

The situation of occupied Holland was different from that of other countries occupied by Germany, mainly because of its geography. Holland is a small country, with only about 100 km from the German border to the main cities. The country is flat and sparsely forested, making it easy for troops to move through the area. This made resistance to the occupation difficult; contact with the Government-in-exile in London could only be made through

¹³⁵ S. Kjelstadli, "The Resistance Movement in Norway and the Allies 1940-1945", in *European Resistance Movements 1939-1945: Proceedings of the Second International Conference on the History of the Resistance Movements Held at Milan 26-29 March 1961*, p. 325.

¹³⁶ *Ibid.*, p. 329.

¹³⁷ *Ibid.*, p. 337-338.

complicated routes via Sweden and Switzerland.¹³⁸

The occupying power appropriated large portions of Holland's industrial products and foodstuffs and many Dutch civilians were sent to work in Germany. Holland's relatively large Jewish population was persecuted, but, apart from that, the civilian population was generally treated well by the occupiers.¹³⁹ This, however, did not stop dissatisfaction among the population. The main action of resistance made by the Dutch was not an armed one, but consisted of hiding Dutch Jews from the Germans, including forging identity papers and providing ration cards.¹⁴⁰ Whatever sabotage was carried out was mainly done by individuals, and was never formally organized. It was not until the last year of the occupation that the resistance movements were organized into a larger formation. Under the name "Binnenlandse Strijdkrachten" (BS), organized sabotage operations were carried out, and armed resistance escalated with the approach of the Allied forces.¹⁴¹

¹³⁸ L. de Jong, "The Dutch Resistance Movement and the Allies 1940-1945", in *European Resistance Movements 1939-1945: Proceedings of the Second International Conference on the History of the Resistance Movements Held at Milan 26-29 March 1961*, p. 347-348.

¹³⁹ *Ibid.*, p. 348.

¹⁴⁰ *Ibid.*, p. 352. The resistance also helped move downed allied airmen from the occupied territory to Belgium and France.

¹⁴¹ *Ibid.*, p. 355.

3.1.1.4 France

Resistance in France began in small scale, mainly as civil disobedience, with secret meetings and spreading of subversive papers. Most groups emerged from political circles, mainly leftist groups, like the Socialists and the Communists, as well as Catholic groups, and were in opposition both to the German occupation and the Vichy Government.¹⁴² These groups usually had a political agenda of their own, and operated not only to rid themselves of the German occupiers, but also to reach power themselves.

When the German occupation began in earnest to pursue its doctrine of racial purity and slave labor, opposition intensified into armed resistance. Some resistance groups collaborated with or were aided by the French Secret Service, giving them better access to strategic information on the whereabouts of occupation forces.¹⁴³ Other small groups joined forces to become more effective, like the “*Mouvements de Libération Nationale*“(MLN).¹⁴⁴ This organization soon had coordinated activities all over France, which also entailed several para-military groups. These para-militaries concentrated on collecting information on the German occupiers and incapacitating

¹⁴² G. A. Almond, “*The Resistance and the Political Parties of Western Europe*”, *Political Science Quarterly*, Vol. 62, No. 1, 1947, p. 28-29.

¹⁴³ *Ibid.*, p. 28

¹⁴⁴ *Ibid.*, p. 31.

enemy agents, as well as sabotaging and stealing munitions.¹⁴⁵

Following the Allied invasion of Normandy in June 1944, the para-military activities of the different resistance movements took on a more official character. These groups provided significant help to the Allied forces, attacking communication lines, harassing the enemy behind their lines, and protecting fortifications vital to the Allies.¹⁴⁶

Not all resistance groups were aided by or collaborated with the Allies. Many groups operated on their own, without regard to any of the rules of war established by The Hague Conventions. Looking at the make-up of these organizations, it is highly probable that groups led by or containing remnants of the French Armed Forces or leaders thereof respected the laws of war, while other militant groups were completely ignorant of these rules.

3.1.2 A special case – resistance in Italy

Italy forms a special case in the history of resistance movements during WWII. This was the only belligerent state that had an organized resistance movement dedicated to toppling its own sovereign and joining the Allies. Although Mussolini held an iron

¹⁴⁵ 72 M. Baudot, "*La Résistance en France et les Alliés*", in *European Resistance Movements 1939-1945: Proceedings of the Second International Conference on the History of the Resistance Movements*, Milan, 26-29 March 1961, p. 387.

¹⁴⁶ *Ibid.*, p. 369.

grip on the nation and, at the outset, was seen as the savior who had liberated the country from an uncomfortable existence as a monarchy, opinion soon changed among parts of the population. These groups felt that Italy should be on the Allied side, fighting for democracy and against fascism.¹⁴⁷ When, in July 1943, Mussolini's regime fell, both the efforts of monarchists trying to recapture power and the fast-growing anti-Fascist movement also vying for power, failed. Germany occupied the country, and the resistance found itself facing a new enemy.¹⁴⁸

These events deepened the resolve of the Italian resistance to free themselves from unwanted rule, and they set out to free themselves from oppression and join the Allied side.¹⁴⁹ Aided and armed by the American OSS (Office of Strategic Services) and the British SOE, Italian partisan groups conducted several armed operations, particularly during the last half of 1944.¹⁵⁰ These operations greatly aided the Allied advance through Italy.

The reaction of Germany to Italian resistance was harsh,

¹⁴⁷ F. Parri & F. Venturi, "*The Italian Resistance and the Allies*", in *European Resistance Movements 1939-1945: Proceedings of the Second International Conference on the History of the Resistance Movements*, Milan, 26-29 March 1961, p. xiii.

¹⁴⁸ *Ibid.*, p. xvii.

¹⁴⁹ *Ibid.*, p. xviii

¹⁵⁰ One famous example is that of the battle for Monte Battaglia in September 1944, where 400 partisans killed a number of Germans. This operation enabled US General Clark to take the mountain, a definitive advantage to the future of the Allied advance in Italy. *Ibid.*

mainly because of the betrayal they felt the Italians had committed. Surrendering to the Allies and then fighting on the Allied side was not something that was looked upon with kind eyes in Berlin.

3.1.3 The legal position of the resistance movements

As has been seen, the resistance movements in the above-mentioned countries varied greatly in character and magnitude. Denmark retained its government within the country, making it difficult for the resistance to gain support and legitimacy. Both Denmark and Norway were aided by the British SOE, but resistance in Norway was made difficult by the harsh German treatment of Norwegian civilians. Resistance in the Netherlands was hampered by the country's geography and proximity to Germany itself.

France was never totally occupied, and resistance in the occupied North was different from that in the "free" South. The efficiency of the resistance was further cramped by the different political aspirations of many of the underground organizations, making cooperation difficult.

The resistance in Italy went through two phases, first operating against an oppressive Italian regime, and then against German occupation. The resistance evolved from a mainly civil resistance, to an armed one. Interesting to note is that most of these resistance

movements were organized to some extent and many of them had contact with governments in exile, e.g. Norway and France.

3.1.4 German reprisals

The general policy of Germany toward these resistance organizations was harsh. In many of the occupied areas, reprisals by German troops against suspected civilians and their families were common. These reprisals mainly entailed the taking and executing of hostages, and were sanctioned by the German High Command of the Armed Forces.¹⁵¹ Germany partially based its actions on earlier wars, where it had acted in similar manner, and had a long-standing tradition of disregarding the Hague rules and other international agreements, calling them “absolutely opposed to the nature and aims of war.”¹⁵²

In an order of September 16, 1941 dealing with the suppression of resistance movements in occupied territories, Fieldmarshal Keitel, the Chief of the German High Command, established that any and all action by resistance groups or guerrillas was assumed to be of

¹⁵¹ Reprisals were also taken against property belonging to the civilian population. The *Trial of Franz Holstein* described Germans burning down three farms for every German soldier killed. These forms of reprisals were, however, not as common as reprisals against individuals. A. R. Albrecht, “*War Reprisals in the War Crimes Trials and in the Geneva Conventions of 1949*”, *AJIL Vol. 47, 1953*.

¹⁵² E. Hammer & M. Salvin, “*The Taking of Hostages in Theory and Practice*”, *AJIL, Vol. 38, 1944, p. 23*.

Communist origin, and that the death of one German soldier by such groups would demand the execution of 50 to 100 Communists in retaliation. In a further order, of December 16, 1942, Keitel expounded his earlier order, declaring that “his fight has nothing to do with soldierly gallantry or principles of the Geneva Conventions” and that “[i]t is therefore not only justified, but is the duty of the troops to use all means without restriction – even against women and children – as long as it ensures success.”

Keitel’s orders were applied by all High Commands in Europe. Deputy Wehrmacht Commander Southeast Kuntze ordered in 1942 that reprisal measures were to be sharpened, and that, if the perpetrators of insurrectional actions were not found, further reprisals were called for, like the killing of all male civilians from the nearest villages, according to a set ratio.

In Belgium the German Governor ordered that at least five hostages should be shot for every German soldier killed.¹⁵³ In Italy Lt. Col. Kesselring ordered that “should troops etc. be fired upon from any village, the village will be burnt down.” On many occasions, Germans killed hostages who did not have any connection to the perpetrated crime for which they were slaughtered, and in

¹⁵³ E. Hammer & M. Salvin, “*The Taking of Hostages in Theory and Practice*”, AJIL, Vol.38, 1944, p. 29.

many instances the hostages were murdered even after the perpetrators were arrested and killed.¹⁵⁴ For instance, during the German occupation of Byelorussia an order was issued, stating, “[a]ny hostile manifestations on the part of the population toward the German armed forces is punishable by death. If a guerrilla remains undiscovered, hostages should be taken from the population. These hostages are to be hanged if the culprits or their accomplices are not delivered within twenty-four hours. Within the next twenty-four hours double the number of hostages should be hanged on the same spot.”¹⁵⁵

3.2 Additional Case Studies

3.2.1 Case Study of Sweden

Sweden ratified the Additional Protocol in 1979, accepting all regulations within it without reservations. In 1984, the Swedish International Humanitarian Law Committee (Folkrättskommittén) published an Official Report on the Swedish interpretation of humanitarian law as it stood at the time, and how it should be applied by Swedish authorities.

¹⁵⁴ E. Hammer & M. Salvin, “*The Taking of Hostages in Theory and Practice*”, AJIL, Vol.38, 1944, p. 30.

¹⁵⁵ 87 E. Hammer & M. Salvin, “*The Taking of Hostages in Theory and Practice*”, AJIL, Vol. 38, 1944, p. 30.

The official Swedish attitude towards resistance to occupation is that resistance should be made at all times. If the country becomes occupied, it means that the defensive forces failed to keep the enemy off Swedish territory, but the conflict is in no way to be deemed resolved. Resistance to occupation is officially sanctioned by the Swedish Government.

The Official Report of 1984 also studied the time criterion in Article 44.3 API, the open-carrying of arms “during deployment preceding military action”, and took up possible problems of interpretation that may arise. The International Humanitarian Law Committee illustrated two extremes that would accentuate these problems. On one hand is the interpretation that “preceding” should encompass the entire process of preparation, including transportation to the planned place of engagement and even the gathering before transportation. This interpretation would make it extremely difficult for both resistance movements and regular units to deploy in secret, a tactic sometimes necessary in order to carry through an attack successfully.

The other extreme would define “preceding” as “immediately preceding”, which would most certainly endanger civilians, and would probably also go against Article 37 AP1, which forbids perfidy. The Swedish interpretation is an amalgamate of these two

extremes, allowing for movement with concealed weapons if the risk of contact with the enemy is small. The Committee also advises a potential Swedish resistance movement to wear an armband as soon as it makes contact with enemy forces.

In general the Report was accepted, but it contained one new concept which caused some concern and which ultimately was discarded. The general international opinion during the 1970s was that soldiers and members of resistance movements were permanently in action even when they were not specifically engaged in military operations.¹⁵⁶ The British Manual of Military Law stated in 1971 that, “both these classes have distinct privileges, duties, and disabilities... an individual must definitely choose to belong to one class or the other, and shall not be permitted to enjoy the privileges of both; in particular... an individual [shall] not be allowed to kill or wound members of the army of the opposed nation and subsequently, if captured or in danger of life, pretend to be a peaceful citizen”.

The Swedish International Humanitarian Law Committee found that this was a solution that only favors the occupier. Alongside the regular armed forces, the national defense system

¹⁵⁶ Official Records of the Geneva Diplomatic Conference, Geneva, vol. XIV, 1974-1977, p. 323.

incorporated a Home Guard, certain police forces, and certain types of security forces. The very character of the Home Guard and these other categories as temporary soldiers, fulfilling all the criteria of a combatant when they are on duty, but qualifying as civilians at all other times, would go against API if interpreted in this way. This was felt to be unacceptable to the Committee, and the Official Report of 1984 suggested another solution. As long as the members of the Home Guard fulfill the four criteria while on duty, and as long as these individuals do not violate their rights whilst civilians, there should be no objection to them being classified as temporary combatants. It was suggested that this term might apply to police and members of organized resistance movements, too. The Committee stated that although the term “temporary combatant” does not exist explicitly in international humanitarian law, the concept is not illegal. It interpreted Article 51.3 API as allowing individuals to change over between different statuses, as long as all criteria are fulfilled for each status. Furthermore, the Committee felt it was possible to make an analogy toward the differentiation between temporary and permanent medical personnel made in Article 8.k API.

The use of the term “temporary combatant” was heavily criticized from many sides, and was not used in the Ordinance on international humanitarian law adopted in 1990, Totalförsvarets

folkrättsförordning (1990:12), or in any other Swedish legal text. In 1998 another Official Report was compiled, with the task of determining the legal status and tasks of the Home Guard, police forces, and other security forces in case of war, but also with the aim of determining whether the term “temporary combatant” was an acceptable expression when dealing with international humanitarian law.

In general, the Official Report of 1998 found that the use of the expression and concept of “temporary combatant” would give rise to many uncertainties and credibility issues in the event of an armed conflict on Swedish soil. Sweden is a country with a small armed defense. In the event of an attack, it would be of great importance to use not only these forces, but also other groups, like police, the Home Guard, and certain other security personnel, which otherwise would conduct their civilian duties, in the defense of the country. Thus it is necessary for these groups to be labeled as combatants whilst performing these duties. However, if these groups were permanently seen as combatants, i.e. even when they are fulfilling their civilian duties, they would be a legitimate target for the enemy, even though they were not participating in armed defense of the country. If it were possible for these groups to change status between combatant and civilian, they would be appropriately protected.

However, the advantages these groups gain by this concept are dwarfed by the confusion that would arise both on the enemy side and amongst other civilians. Since the term “temporary combatant” and the concept of changing back and forth between statuses is not expressly accepted by international humanitarian law, the enemy forces could easily consider a policeman doing his duties as a member of the armed forces as a civilian participating in hostile activities contrary to humanitarian law. Furthermore, confusion as to which policeman is acting as a combatant and which is fulfilling his civilian duties could lead to the enemy treating all police as legitimate military targets.

The conclusion in the Official Report was that the use of the concept and term “temporary combatant” would risk Sweden’s credibility in following the rules of international humanitarian law and the international community’s trust in Sweden’s dedication to following the spirit of the rules. Therefore, it was suggested that the concept be abandoned completely.

3.2.2 Case Study of the United Kingdom

The British attitude toward occupation of British soil is simple. The British Manual speaks of a right of armed forces and resistance groups to continue their struggle even after an occupation has entered

into force, as long as they distinguish themselves from the civilian population or carry their arms openly during deployment.¹⁵⁷ In discussing the principle of distinction, the Manual is clear: “[a]n individual who belongs to one class is not permitted at the same time to enjoy the privileges of the other class”.¹⁵⁸ However, it clearly states that, “an organized guerrilla group or resistance movement that meets the requirements [of combatant] is as much a part of the armed forces as a regular unit”.¹⁵⁹ There is a clear acceptance of resistance movements in British military law.

The United Kingdom signed the Additional Protocol in 1977 and ratified it in 1998. A number of reservations and declarations were made, some regarding occupation and resistance. Firstly, there is a declaration on Article 44.3 regarding the United Kingdom’s interpretation of the term ‘*deployment*’. This declaration, defining deployment as “*any movement towards a place from which an attack is to be launched*” has been made by many states parties to the Additional Protocol, and should merely be seen as a clarification of the term. The 2004 British Manual of the Law of Armed Conflict brings up the question of the time criterion in the Article as well, discussing, as was done in the 1984, Swedish Official Report, the

¹⁵⁷ Article 11.13, “*Manual of the Law of Armed Conflict*”, UK Ministry of Defence, 2005, p. 279.

¹⁵⁸ Article 4.1.1, *Ibid.*, p. 37.

¹⁵⁹ Article 4.3.2, *Ibid.*, p. 39.

difficulties of a wide interpretation of the rule, and clarifies it to mean “situations where a combatant is truly unable to operate effectively whilst distinguishing himself...”.¹⁶⁰ The Manual also clarifies how the UK interprets the term “*visible to the adversary*”. A combatant must carry arms openly whilst visible through regular or infra-red binoculars. The Manual states:

The test is whether the adversary is able, using such devices, to distinguish a civilian from a combatant carrying a weapon [...] The wide availability of these devices means that combatants should [...] carry their arms openly well before they are actually in contact with the enemy.¹⁶¹

Having ratified the Additional Protocol, the UK is bound to follow it. However, a reservation to the Protocol makes it clear that the UK considers itself bound by the document only where reciprocity exists, i.e. where the opponent also has ratified the Additional Protocol, or where the opponent has made a declaration according to Article 96.3 stating that it considers itself bound by the Additional Protocol. The United Kingdom also reserved its right to consider itself bound to any declaration according to Article 96.3 API unless it has expressly recognized that the body making the declaration is genuinely an authority representing a people engaged in an armed conflict.

¹⁶⁰ Article 4.5.1, “*Manual of the Law of Armed Conflict*”, UK Ministry of Defence, 2005 p. 42.

¹⁶¹ Article 4.5.3, p. 43.

3.2.3 Case Study of Iraq

The Gulf War of 2003 and its aftermath have led to passionate debates among lawyers. Most of this debate has focused on questions of *jus ad bellum*, in particular the legality of the attack on Iraq by the United States (US), the United Kingdom (UK) and their allies in March 2003.¹⁶² Questions of *jus in bello* have received less attention. This is unfortunate, because the occupation of Iraq by the US and the UK is one of the few instances in which states have accepted that the law of occupation is applicable to them. Hitherto the law of occupation has mostly been addressed in the context of the Israeli-occupied territories. Israel denies that the law of occupation applies to those territories *de jure*, although it has stated that it applies the law *de facto*.¹⁶³

In the case of Iraq, the situation was governed not only by the law of occupation but also by United Nations Security Council resolutions. The question is how these two legal instruments relate to each other. It is argued in this analysis that Resolution 1483¹⁶⁴ may have made certain inroads on the law of occupation. The goals set for

¹⁶² Colin Warbrick, "The use of force against Iraq", *International & Comparative Law Quarterly*, Vol. 52, No. 3, 2003, p. 811 ;

¹⁶³ On the applicability of the law of occupation in the Israeli-occupied territories, see International Court of Justice, *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion*, 9 July 2004. Not yet published but available at the website of the ICJ: <http://www.icj-cij.org/icjwww/idocket/imwp/imwpframe.htm> .

¹⁶⁴ SC Res. 1483, 22 May 2003.

the occupying powers in the resolution with regard to the political and economic transformation of Iraq, as well as the resolution's reference to States contributing troops to the multinational stabilization force, opened up the possibility to go beyond some of the limits set by the law of occupation or even not to apply that law at all. A number of concrete examples are discussed below. This argument is based on the premise that the UN Security Council may derogate from international law when it is acting under Chapter VII of the UN Charter. The question whether and under which conditions this is a valid premise received much scholarly discussion in the 1990s.¹⁶⁵ Although the occupation of Iraq came theoretically to an end in June 2004, the occupiers' sustained the presence of their military troops; this does not affect the importance of reflecting on the relationship between the law of occupation and Security Council resolutions. Legislation promulgated by the occupying powers in Iraq remained in force after the transfer of authority, and consequently such legislation continues to have effect.¹⁶⁶ Nor can the eventuality of other circumstances in which the law of occupation and Security Council resolutions addresses the same situation be excluded.

¹⁶⁵ Gabriel Oosthuizen, "Playing the devil's advocate: The United Nations Security Council is unbound by law", *Leiden Journal of International Law*, Vol. 12, No. 3, 1999, p. 549;

¹⁶⁶ Thus the validity of the Coalition Provisional Authority's legislation which was in breach of occupation law and which is still in force could be disputed insofar as it has not been explicitly ratified by the interim government.

3.2.3.1 Conflict and occupation in Iraq

After the US and UK armed forces, supported by a small number of troops from Australia and Poland, defeated the Iraqi armed forces, they became the *de facto* authority in Iraq. The two countries took steps to put in place a postwar administration. This administration, initially known as the Office of Reconstruction and Humanitarian Aid (ORHA), was headed by retired US General Jay Garner, who reported to the Pentagon. A few months later, L. Paul Bremer III, a US diplomat, was appointed to direct the postwar administration, renamed the Coalition Provisional Authority (CPA). The CPA arrogated broad powers to itself. On 16 June 2003 it issued “Coalition Provisional Order Number 1”. This Order states *inter alia* that the CPA “shall exercise powers of government temporarily in order to provide for the effective administration of Iraq during the period of transitional administration”¹⁶⁷ and that it “is vested with all executive, legislative Security Council resolutions.”¹⁶⁸

3.2.3.2 Application of the law of occupation

a- Scope of application

At some point in this period, the US and the UK became

¹⁶⁷ Coalition Provisional Authority Regulation Number 1, 16 May 2003, CPA/REG/16 May 2003/01, Section 1 (1).

¹⁶⁸ *Ibid.*, Section 1 (2).

occupying powers under international humanitarian law.¹⁶⁹ Both the Regulations annexed to the 1907 Hague Convention (IV) respecting the Laws and Customs of War on Land¹⁷⁰ and the Fourth Geneva Convention of 1949¹⁷¹ contain provisions on occupation. Article 42 of the 1907 Hague Regulations provides that: “Territory is considered occupied when it is actually placed under the authority of the hostile army. The occupation extends only to the territory where such authority has been established and can be exercised.”¹⁷²

The said article makes clear that whether or not a territory is occupied is a question of fact. The article also appears to require that the occupant is actually exercising control over the territory. As the American Military Tribunal sitting at Nuremberg also made clear in the *Hostages Trial*, this requirement must not be read restrictively. It is sufficient that the occupying forces “could at any time they desired assume physical control of any part of the country.”¹⁷³ In the cases of

¹⁶⁹ A territory becomes occupied when it is actually placed under the control of the occupying forces. It is submitted that the precise point in time at which this occurred in the case of Iraq could only be ascertained by commanders on the ground. In any event it can safely be said that on 1 May 2003, when President Bush declared the end of major combat operations, Iraq was occupied.

¹⁷⁰ Regulations respecting the Laws and Customs of War on Land, annexed to the Hague Convention (IV) respecting the Laws and Customs of War on Land, 18 October 1907, 2 AJIL Supp. 90 (1908), TS No. 539, 205 Parry’s TS 277 (Hague Regulations).

¹⁷¹ Convention relative to the Protection of Civilian Persons in Time of War, 12 August 1949, 75 UNTS 287 (Fourth Geneva Convention).

¹⁷² *United States v. Wilhelm List and others (the Hostages Trial)*, United States Military Tribunal, Nuremberg, VIII Law Reports of Trials of War Criminals 55, 1949.

¹⁷³ *Ibid.*, p.56. See also Gerard von Glahn, “*The Occupation of Enemy Territory: A Commentary on the Law and Practice of Belligerent Occupation*”, Minneapolis, University of Minnesota Press, 1957, p. 28.

Greece and Yugoslavia, with which the Tribunal was dealing, the fact that there were guerrilla operations against the Germans and that the guerrillas were able to control sections of those countries at various times did not detract from the conclusion that there was an occupation. It is submitted that the same applies to Iraq.

Common Article 2 of the 1949 Geneva Conventions provides that the Conventions apply to all cases of partial or total occupation of the territory of a High Contracting Party, even if the said occupation meets with no armed resistance. The ICRC Commentary to the Fourth Geneva Convention states that the term “occupation” as used in that Convention has a wider meaning than it has in Article 42 of the Regulations annexed to Hague Convention (IV) of 1907. According to the Commentary, so far as individuals are concerned, the application of the Fourth Geneva Convention does not depend upon the existence of a state of occupation within the meaning of the Article 42 of the Hague Regulations.¹⁷⁴

b- The US and UK as occupying powers in Iraq

The US and the UK addressed a letter to the President of the UN Security Council on 8 May 2003 in which they stated that they would

¹⁷⁴ Jean Pictet (ed.), *The Geneva Conventions of 12 August 1949: Commentary, (IV) Geneva Convention relative to the Protection of Civilian Persons in Time of War*, International Committee of the Red Cross, Geneva, 1958, p. 60.

strictly abide by their obligations under international law.¹⁷⁵ According to that letter, the obligations include those relating to the essential humanitarian needs of the people of Iraq. This appears to be a reference to the law of occupation, which includes the duty for an occupying power to ensure the food and medical supplies of the population to the fullest extent of the means available to it. However, the US does not appear to have said explicitly at that time that it was an occupying power. At a briefing on 7 April 2003, a US Department of Defense official stated that at that moment the US was not a military occupier or occupation force in the technical sense of the law of war.¹⁷⁶ The official said that it is not “until the fighting has concluded and is very conclusive, [that] you reach the point where technically there might be a military occupation (...) and a declaration of occupation is issued.”¹⁷⁷ On 25 April 2003, US Secretary of Defense Rumsfeld suggested that the US would become an occupying power at the moment the war was declared over.¹⁷⁸ This indicates that the US considered that it became an occupying power at the latest on 1 May 2003, when President Bush declared the

¹⁷⁵ Letter from the Permanent Representatives of the United Kingdom and the United States to the United Nations addressed to the President of the Security Council, of 8 May 2003, UN Doc. S/2003/538.

¹⁷⁶ Briefing on Geneva Convention, EPWs and War Crimes, 7 April 2003, Department of Defense.

¹⁷⁷ *Ibid.*

¹⁷⁸ Department of Defence News Briefing — Secretary Rumsfeld and General Myers, 25 April 2003.

end of major combat operations in Iraq.¹⁷⁹ At a later date US officials did explicitly state that the US is an occupying power.¹⁸⁰ UK officials have on several occasions expressly referred to the UK as an occupying power in Iraq.¹⁸¹

On 28 June 2004 the occupying powers transferred the governance to an Iraqi interim government and dissolved the CPA.¹⁸² The transfer of authority, originally scheduled for 30 June 2004, had already been anticipated in UN Security Council Resolution 1546 of 8 June 2004. Operative paragraph 2 of that resolution stated that the Council: “Welcomes that, also by 30 June 2004, the occupation will end and the Coalition Provisional Authority will cease to exist, and that Iraq will reassert its full sovereignty.”¹⁸³

The said statement raises the question as to the point in time at which the occupation of Iraq ends. This question is not dispositive for the subject under discussion in this article, i.e., the relationship between Resolution 1483 and the law of occupation and the possibility for the Security Council to set aside that law. It is,

¹⁷⁹ Amy Goldstein & Karen DeYoung, “*Bush to say major combat has ended*”, *The Washington Post*, 1 May 2003.

¹⁸⁰ See e.g. Rajiv Chandrasekaran, “*The final word on Iraq’s future: Bremer consults and cajoles, but in the end, he’s the boss*”, *The Washington Post*, 18 June 2003, p. A01.

¹⁸¹ See e.g. written statement to the House of Commons by the Foreign Secretary Jack Straw on a timetable for a new constitution and elections in Iraq, 20 November 2003.

¹⁸² Rajiv Chandrasekaran, “*U.S. hands authority to Iraq two days early: Fear of attacks hastens move — interim leaders assume power*”, *The Washington Post*, 29 June 2004, at A.01. The UN, the US and Iraqi political figures were involved in selecting the members of the interim government.

¹⁸³ SC Res. 1546, 8 June 2004.

however, an important question in its own right. According to Lauterpacht, occupation comes to an end when an occupant withdraws from a territory, or is driven out of it.¹⁸⁴ The law of occupation itself, in Article 6 of the Fourth Geneva Convention, merely states that its application shall cease one year after the general close of military operations, but that some provisions remain in force for the duration of the occupation. In other words, the application of the law of occupation ends at the moment there is no longer effective control over the occupied territory,¹⁸⁵ for without effective control there is no occupation.

Besides the two instances mentioned by Lauterpacht, that law may also cease to apply where troops of the former occupying power remain in the territory of the formerly occupied territory but the legitimate power is no longer in the hands of the occupant. This is a question of fact, but international recognition, in particular by the UN Security Council, may be an indicator.¹⁸⁶ Of importance in this connection is the announcement made by the President of the Security Council in a press statement on 28 June 2004: “The

¹⁸⁴ H. Lauterpacht (ed.), *Oppenheim’s International Law: A Treatise*, Vol. 2: *War, Disputes, and Neutrality*, Longman, London, 1952, p. 436

¹⁸⁵ Georg Schwarzenberger, *International Law as Applied by International Courts and Tribunals*, Vol. II: *The Law of Armed Conflict*, Stevens, London, 1968, p. 317

¹⁸⁶ Marco Sassòli, “Article 43 of the Hague Regulations and peace operations in the twenty-first century”, background paper prepared for informal high-level expert meeting on Current Challenges to International Humanitarian Law, Cambridge, 25–27 June 2004.

members of the Security Council welcome the handover of full responsibility and authority for governing Iraq to the fully sovereign and independent Interim Government of Iraq, thus ending the occupation of the country.”¹⁸⁷

As for the facts, media reports suggest that the US and UK did effectively hand over administrative authority on 28 June. The same is also implied by the statement by US Secretary of State Colin Powell that the troops would leave Iraq if the Iraqi government asked them to.¹⁸⁸ In conclusion, the debate remains ongoing on the application of the Law of occupation and the Security Council resolutions and especially when both legal origins contradict. To end this debate, the solution is to go back to the normal application of the general norms of law and the hierarchy relevance of the international legal norms where conventions, as the highest norm level, govern the states relation and the application of the decisions of international community. In concrete term, the resolution 1483 should abide the provision of the law of occupation.

3.2.3.3 Conclusion

The situation in Iraq has focused renewed attention on the law of

¹⁸⁷ Press statement by Security Council President of 28 June 2004, UN Doc. SC/8136.

¹⁸⁸ Glenn Kessler, “*Powell says troops would leave if new leaders asked*”, The Washington Post, 15 May 2004.

occupation. It is rare that States accept the status of occupying powers, as the US and the UK have done. However, the adoption of Resolution 1483 combined with the activities of the US, the UK and states assisting them in Iraq have raised questions as to the relationship between that resolution and the law of occupation. The Security Council, acting under Chapter VII of the UN Charter, appears able to derogate from at least those rules of the law of occupation which do not constitute peremptory norms of international law. Claims that the Security Council has done precisely that in Resolution 1483 are neither clearly corroborated nor clearly dismissed by an analysis of the resolution and the circumstances surrounding its adoption. The lack of clarity in this respect has been lamented by commentators, who argue that the Council should have set out a mandate of civilian and military responsibilities and UN oversight that would eclipse much of occupation law with a larger body of modern international law as a source of guidance in attaining transformational objectives. If the Council intends to derogate from international law in a resolution, it should do so explicitly and determine the alternative regime to be applied. A decision as important as derogating from the law of occupation should not be made ambiguously. It is clear from the geopolitical situation at the time Resolution 1483 was adopted, however, that an explicit

derogation was not feasible. Such a determination could have been regarded as endorsing the armed intervention in Iraq, which was unacceptable to several permanent members of the Council. In this respect an analogy between the Stabilization Force in Iraq and UN-authorized peace support operations including ISAF and KFOR is misleading. In the case of the latter, the Security Council has set out clear mandates in enabling resolutions and has authorized the use of all necessary means to achieve those mandates. In the case of the Stabilization Force in Iraq, the Council in the first instance appears primarily to have taken note of the factual situation of the US and UK as occupying powers. Only in Resolution 1511 adopted on 16 October 2003 did the Council authorize a multinational force under unified command to take all necessary measures to contribute to the maintenance of security and stability in Iraq.¹⁸⁹ Resolution 1511 also expressly underscored the temporary nature of the exercise by the Coalition Provisional Authority of the specific responsibilities, authorities, and obligations under applicable international law recognized and set forth in Resolution 1483 (2003).¹⁹⁰

The foregoing analysis leads to the conclusion that developments in Iraq are not in themselves, as some maintain, an argument for

¹⁸⁹ SC Res. 1511, 16 October 2003

¹⁹⁰ *Ibid.*, para. 1.

revising the existing law of occupation.¹⁹¹ That law remains an important framework for addressing such situations. In exceptional cases in which it is considered too restrictive, the Security Council may derogate from certain provisions. In a case such as Iraq, where there are divergent views as to the legitimacy of the events that have led to the occupation, there can be no derogation or only an ambiguous one, and the States concerned will have only limited latitude for reforms. More fundamental changes to the occupied territory's political, legal and economic system will have to be left to that territory's population. If such changes are considered necessary, power should be transferred to the local population as soon as possible. In the present case, this means that power should pass as soon as possible to the Iraqi people. And that is precisely what Resolution 1483 contemplated in its fourth preambular paragraph, which expresses "resolve that the day when Iraqis govern themselves must come quickly".¹⁹²

¹⁹¹ D. P. Goodman, "*The need for fundamental change in the law of belligerent occupation*", Stanford Law Review, Vol. 37, 1985, p. 1573.

¹⁹² SC Res. 1483, preambular para. 4.

Chapter 4

Conclusion and Recommendations

The thesis has described the development of international humanitarian law toward greater recognition and protection of the right to defend peoples' rights to self determination and freedom, even though the individual forms no part of a regular army. Until the end of the 19th century, civilians who took part in hostilities, without being part of the armed forces, were considered illegal combatants and punished thereafter. The past century has shown a rapid and definitive legal development in line with the change in attitude toward resistance movements and guerrilla-type fighting, due, in part, to the intensive resistance activities during WWII supported by the Allies.

However, not all states accept this development. The United States and Israel, for example, have declared themselves unprepared to go as far as to ratify the Additional Protocol, largely because of the more nuanced definition of combatants in it. They argue that the risk to civilians would become too great. The counter-argument from different sides is that the Additional Protocol merely codified what

has already become customary international law.

4.1 The adequacy of war regarding resistance in occupied territory

The practical development of warfare and the now-accepted principle of self-determination and human rights in general, have correctly led to the rules of the Additional Protocol. It is clear that resistance movements and guerrilla groups have emerged despite regulations to deter them. The possible logical step in this situation would be to accommodate the law to the factual reality, not force reality to comply with the law.

In my view, the changes that were made to the definition of combatant in the Additional Protocol are correct. The main cause for concern during war should be the protection of civilians and that the basic rule of distinction remains intact. What the Additional Protocol did is to widen the categories to be included in the definition of combatant so as not to leave any individual unprotected by the Geneva Conventions. Giving resistance groups' recognition as combatants serves to give these groups the confidence and incentive to follow the rules of war, because it is then clear that the rules of war apply to them, too. Earlier, when it was not clear whether these groups were encompassed by the Geneva Conventions, there was

really nothing that would encourage them to follow the rules. This increased the risk of terrorist groups committing war crimes, either because of ignorance of the rules, or because of exasperation at not being recognized for their struggle. The rules of war are not only designed to protect civilians, they exist to protect combatants, too.

Article 4 of the GCIII analyzed a previous theory as of the obligation of resistances to belong to a party of the conflict if they want to earn the right to held resistance movement. This implied a controversial debate in identifying the official authority of the State for which the resistance was fighting, thus also the official recognition by the adverse Party. The Additional Protocol stipulated strict conditions to define resistance movements and neglected previous conditions related to the obligations of resistance to be recognized by the enemy and by a state party to the conflict for which the resistance was fighting. The most important requirement for being a legitimate resistance movement was the identification of a chain of command even if it wasn't recognized by everyone. This chain of command implies a certain level of organization, discipline, and a willingness to follow the rules of war.

The concept of requiring distinction between the phases of a military deployment preceding an attack is a welcome innovation because it is possible to identify at which stage of the military

deployment combatants must carry their weapons openly. However, it appears a bit unclear, which is why certain States made clarifying declarations on the subject at ratification. As seen above, Sweden did not make such a declaration, and instead found itself rationalizing back and forth in the Official Report from 1984 on the difficulties of determining the chronological scope of the term. The Swedish position highlighted that the time scope (from the earliest stages of deployment preparation) is unrealistic and the tight time scope puts civilians at risk; there is never a clear line to follow. Although the report appears to decide on one vision, the discussions back and forth to reach this compromise is confusing enough to render the definition useless. This must be confusing to the Swedish armed forces, as well as to the rest of the world, when facing adversaries in a potential future conflict. The most logical solution, with least potential difficulties, should be to make a declaration in line with the British view, whereby it is clearly outlined at which stage of the military deployment combatants must carry their weapons openly.

4.2 Improved rules to encourage resistance movements and Occupying Powers to follow them

There are two problems with today's regulations. One problem related to recognition of resistance movements. It has already been

established that resistance groups need not be recognized by the adverse party to the conflict, but what about recognition by their own sovereign authority or government? Gerhard von Glahn sees a guerrilla supported by its government (in exile or otherwise) as entitled to combatant status. But should other groups, operating independently from the government, be also accorded combatant status? In the writer's opinion they should, as it is supported by the Additional Protocol, which states in Article 43 that, "as long as the guerrilla forces are commanded by a person responsible for them, then they should fulfill the requirements, even though no official, recognized entity supports or recognizes them". Perhaps there should be a requirement based on popular support rather than the official support from an authority.

In a democracy, the authorities receive legitimacy from the people, and from popular support. The mere existence of a resistance movement during an occupation should signal general malcontent with the occupation (Iraq for example). A resistance movement can only survive when it is aided by civilian population around it. Resistance movements depend on the civilian population for sustenance and protection, factors that show a strong correlation between civilians and resistance fighters. The resistance group should perhaps be seen as the military arm of the civilian population, in

places where the official regular armed forces do not exist or cannot operate. Would it be possible to attach a criterion of popular support to the rules on resistance movements? These suggestions on how such a criterion would be formulated presented to the international community, are provided as a spontaneous idea that might prove useful in the future. Encouraging a resistance movement to acquire “official” popular support would, in my view, serve to legitimize the organization’s actions unto themselves and to the enemy, the occupying power. The likelihood of an organized resistance movement emerging in occupied territory increases with the deteriorating quality of administration by the occupying power. Unless a system of sanctions is created to influence an occupying power to take its obligations in the occupied territory extremely seriously, there is always the risk of maladministration leading to the suffering of the civilian population. Out of this suffering and discontent emerge more resistance movements.

The second problem with today’s regulations is the vagueness of the term “arms” in Article 44.3 AP1. How would you categorize a suicide bomber who approaches a military convoy? Does an individual who carries no firearm, but who carries 20 hand grenades, or 20 land mines, have to have these munitions visible when approaching the enemy? These questions may seem elementary at

first glance, of course arms should be shown openly, but the rules are not that explicit. This can prove to be a very complex issue. There should be a clear description of what is meant by the term “arms”, and how different weapons should be handled, so as to avoid confusion.

Although resistance movements have become more widely accepted as legitimate groups of combatants during the 20th century, there is still a discrepancy between the law and reality. As seen above, there are many questions to be resolved to attain better protection of both civilians and combatants during a belligerent occupation. However, there are more issues related to occupation which are equally confusing, although they do not have such a direct tie with the subject for this thesis. The chronological developments of the rules of occupation could potentially give rise to problems, such as when the one-year rule in Article 6 GCIV begins to apply. Taking the example of the occupation of Iraq, President Bush announced on May 1, 2003 that the end of major combat operations had been reached. However, hostilities did not cease at that point; if anything, they escalated. What weight should be given to a declaration such as that made by President Bush?

The international community has come a long way in protecting civilians from wars, and in defining the parameters of war. However,

the main problem is the willingness of individual States to conform to these regulations. There seems no point in having a book of rules if no one is going to follow them, no matter how detailed and fair the rules are. The 1949 Geneva Conventions are universally accepted and have taken on the character of customary law, but still there are countries that do not accept the Additional Protocol, a continuation of the Geneva Conventions. Even among countries that have ratified the Protocol, there are those who state that they will only apply it to certain countries and not to others.¹⁹³ The Protocol was drafted in 1977. Today, almost 30 years later, the nature and scope of armed conflict has changed dramatically. The occurrence of terrorist acts, suicide bombs, etc. has, in my opinion, perhaps made it necessary for another overhaul of the rules, to accommodate for these new developments. The emergence of the term "terrorism" as an all-encompassing epithet to all individuals and groups conducting operations against a State or government instigates mistrust and hate against such groups. In light of the critical transformation of the international environment, the escalation of wars, the growth of resistance movements, and the rise of terrorism around the world and

¹⁹³ For example, Oman declared in 1984 that, "While depositing these instruments, the Government of the Sultanate of Oman declares that these accessions shall in no way amount to recognition of nor the establishment of any relations with Israel with respect to the application of the provisions of the said protocols". Reservations/Declarations made by Oman 29 March, 1984. ICRC homepage

the development of the theories of laws of war, this thesis reflect the basic laws and rules of war that was developed during time. This research helps the readers to understand the fundamental principles set by the international humanitarian law and to develop their perception in connection with the world alteration and the appearance of new theories such as “terrorism” and “the enemy of war”.

APPENDICE

I

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Final Act Of the International Peace Conference. The Hague, 29 July 1899.

Introduction

General title First Peace Conference of The Hague, 1899.
Forum of adoption International Peace Conference 1899

The First Hague Peace Conference of 1899 was convened on the initiative of the Czar of Russia, Nicholas II, "with the object of seeking the most effective means of ensuring to all peoples the benefits of a real and lasting peace, and, above all, of limiting the progressive development of existing armaments" (Russian note of 30 December 1898/11 January 1899). The Conference, at which 26 governments were represented, assembled on 18 May 1899 and adjourned on 29 July 1899. It failed to reach agreement on the primary object for which it was called, namely the limitation or reduction of armaments, but adopted the three Conventions and the other acts mentioned in the Final Protocol. Provision was made for the convening of a second conference. This conference lasted from 15 June until 18 October 1907. The Final Acts constitute authoritative statements of the results achieved. They were signed by the delegates but not ratified by the participating states. They have no binding force.

Meetings of forum 18.05.1899 - 29.07.1899, The Hague
Date of adoption 29.07.1899
Number of articles 6 wishes
Authentic text French

INTERNATIONAL HUMANITARIAN LAW

International Committee of the Red Cross

Document printed from the ICRC web site on the 08.01.2008

Final Act Of the International Peace Conference. The Hague, 29 July 1899.

Full text

The International Peace Conference, convoked in the best interests of humanity by His Majesty the Emperor of All the Russias, assembled, on the invitation of the Government of Her Majesty the Queen of the Netherlands, in the Royal House in the Wood at The Hague on 18 May 1899.

The Powers enumerated in the following list took part in the Conference, to which they appointed the delegates named below:

(Here follow the names of delegates)

In a series of meetings, between 18 May and 29 July 1899, in which the constant desire of the delegates above-mentioned has been to realize, in the fullest manner possible, the generous views of the august initiator of the Conference and the intentions of their Governments, the Conference has agreed, for submission for signature by the plenipotentiaries, on the text of the Convention and Declarations enumerated below and annexed to the present

Act:

- I. Convention for the peaceful adjustment of international differences.
- II. Convention regarding the laws and customs of war on land.
- III. Convention for the adaptation to maritime warfare of the principles of the Geneva Convention of 22 August 1864.
- IV. Three Declarations:
 1. To prohibit the launching of projectiles and explosives from balloons or by other similar new methods.
 2. To prohibit the use of projectiles, the only object of which is the diffusion of asphyxiating or deleterious gases.
 3. To prohibit the use of bullets which expand or flatten easily in the human body, such as bullets with a hard envelope, of which the envelope does not entirely cover the core or is pierced with incisions.

These Conventions and Declarations shall form so many separate Acts. These Acts shall be dated this day, and may be signed up to 31 December 1899, by the Plenipotentiaries of the Powers represented at the International Peace Conference at The Hague.

Guided by the same sentiments, the Conference has adopted unanimously the following Resolution: "The Conference is of opinion that the restriction of military charges, which are at present a heavy burden on the world, is extremely desirable for the increase of the material and moral welfare of mankind."

It has besides formulated the following 'Voeux':

1. The Conference, taking into consideration the preliminary step taken by the Swiss Federal Government for the revision of the Geneva Convention, expresses the wish that steps may be shortly taken for the assembly of a special Conference having for its object the revision of that Convention. This wish was voted unanimously.
2. The Conference expresses the wish that the questions of the rights and duties of neutrals may be inserted in the program of a Conference in the near future.
3. The Conference expresses the wish that the questions with regard to rifles and naval guns, as considered by it, may be studied by the Governments with the object of coming to an agreement respecting the employment of new types and calibers.
4. The Conference expresses the wish that the Governments, taking into consideration the proposals made at the Conference, may examine the possibility of an agreement as to the limitation of armed forces by land and sea, and of war budgets.
5. The Conference expresses the wish that the proposal, which contemplates the declaration of the inviolability of private property in naval warfare, may be referred to a subsequent Conference for consideration.
6. The Conference expresses the wish that the proposal to settle the question of the bombardment of ports, towns, and villages by a naval force may be referred to a subsequent Conference for consideration.

The last five wishes were voted unanimously, saving some abstentions.

In faith of which, the Plenipotentiaries have signed the present Act, and have affixed their seals thereto.

Done at The Hague, 29 July 1899, in one copy only, which shall be deposited in the Ministry for Foreign Affairs, and of which copies, duly certified, shall be delivered to all the Powers represented at the Conference.

(Here follow signatures)

I N T E R N A T I O N A L H U M A N I T A R I A N L A W

International Committee of the Red Cross

APPENDICE

II

Convention (II) with Respect to the Laws and Customs of War on Land and its annex: Regulations concerning the Laws and Customs of War on Land. The Hague, 29 July 1899.

Introduction

General title First Peace Conference of The Hague, 1899.

Forum of adoption International Peace Conference 1899

Entry into force 04.09.1900

One of the purposes for which the First Hague Peace Conference of 1899 was convened was "the revision of the declaration concerning the laws and customs of war elaborated in 1874 by the Conference of Brussels, and not yet ratified" (Russian circular note of 30 December 1898). The Conference of 1899 succeeded in adopting a Convention on land warfare to which Regulations are annexed. The Convention and the Regulations were revised at the Second International Peace Conference in 1907. The two versions of the Convention and the Regulations differ only slightly from each other. Seventeen of the states which ratified the 1899 Convention did not ratify the 1907 version (Argentina, Bulgaria, Chile, Columbia, Ecuador, Greece, Italy, Korea, Montenegro, Paraguay, Persia, Peru, Serbia, Spain, Turkey, Uruguay, Venezuela). These states or their successor states remain formally bound by the 1899 Convention in their relations with the other parties thereto. As between the parties to the 1907 Convention, this Convention has replaced the 1899 Convention (see Article 4 of the 1907 Convention). The provisions of the two Conventions on land warfare, like most of the substantive provisions of the Hague Conventions of 1899 and 1907, are considered as embodying rules of customary international law. As such they are also binding on states which are not formally parties to them. In 1946 the Nüremberg International Military Tribunal stated with regard to the Hague Convention on land warfare of 1907: "The rules of land warfare expressed in the Convention undoubtedly represented an advance over existing International Law at the time of their adoption ... but by 1939 these rules ... were recognized by all civilized nations and were regarded as being declaratory of the laws and customs of war" (reprinted in AJIL, Vol. 41, 1947, pp. 248-249). The International Military Tribunal for the Far East expressed, in 1948, an identical view. The rules embodied in the Regulations were partly reaffirmed and developed by the two Protocols Additional to the Geneva Conventions of 1949 adopted in 1977.

Meetings of forum 18.05.1899 - 29.07.1899, The Hague

Date of adoption 29.07.1899

Depositary Netherlands

Number of articles 5 (Convention) + 60 (Regulation)

Authentic text French

INTERNATIONAL HUMANITARIAN LAW

International Committee of the Red Cross

Convention (II) with Respect to the Laws and Customs of War on Land and its annex: Regulations concerning the Laws and Customs of War on Land. The Hague, 29 July 1899.

Full text

(List of Contracting Parties)

Considering that, while seeking means to preserve peace and prevent armed conflicts among nations, it is likewise necessary to have regard to cases where an appeal to arms may be caused by events which their solicitude could not avert;

Animated by the desire to serve, even in this extreme hypothesis, the interests of humanity and the ever increasing requirements of civilization;

Thinking it important, with this object, to revise the laws and general customs of war, either with the view of defining them more precisely or of laying down certain limits for the purpose of modifying their severity as far as possible;

Inspired by these views which are enjoined at the present day, as they were twenty-five years ago at the time of the Brussels Conference in 1874, by a wise and generous foresight;

Have, in this spirit, adopted a great number of provisions, the object of which is to define and govern the usages of war on land.

In view of the High Contracting Parties, these provisions, the wording of which has been inspired by the desire to diminish the evils of war so far as military necessities permit, are destined to serve as general rules of conduct for belligerents in their relations with each other and with populations.

It has not, however, been possible to agree forthwith on provisions embracing all the circumstances which occur in practice.

On the other hand, it could not be intended by the High Contracting Parties that the cases not provided for should, for want of a written provision, be left to the arbitrary judgment of the military commanders.

Until a more complete code of the laws of war is issued, the High Contracting Parties think it right to declare that in cases not included in the Regulations adopted by them, populations and belligerents remain under the protection and empire of the principles of international law, as they result from the usages established between civilized nations, from the laws of humanity, and the requirements of the public conscience;

They declare that it is in this sense especially that Articles 1 and 2 of the Regulations adopted must be understood;

The High Contracting Parties, desiring to conclude a Convention to this effect, have appointed as their Plenipotentiaries, to wit:

(Here follow the names of Plenipotentiaries)

Who, after communication of their full powers, found in good and due form, have agreed on the following:

Article. 1. The High Contracting Parties shall issue instructions to their armed land forces, which shall be in conformity with the "Regulations respecting the laws and customs of war on land" annexed to the present Convention.

Art. 2. The provisions contained in the Regulations mentioned in Article I are only binding on the Contracting Powers, in case of war between two or more of them. These provisions shall cease to be binding from the time when, in a war between Contracting Powers, a non-Contracting Power joins one of the belligerents.

Art. 3. The present Convention shall be ratified as speedily as possible. The ratifications shall be deposited at The Hague.

A 'procès-verbal' shall be drawn up recording the receipt of each ratification, and a copy, duly certified, shall be sent through the diplomatic channel, to all the Contracting Powers.

Art. 4. Non-Signatory Powers are allowed to adhere to the present Convention. For this purpose they must make their adhesion known to the Contracting Powers by means of a written notification, addressed to the Netherlands Government, and by it communicated to all the other Contracting Powers.

Art. 5. In the event of one of the High Contracting Parties denouncing the present Convention, such denunciation would not take effect until a year after the written notification made to the Netherlands Government, and by it at once communicated to all the other Contracting Powers. This denunciation shall affect only the notifying Power.

In faith of which the Plenipotentiaries have signed the present Convention and affixed their seals thereto.

Done at The Hague 29 July 1899, in a single copy, which shall be kept in the archives of the Netherlands Government, and copies of which, duly certified, shall be delivered to the Contracting Powers through the diplomatic channel.

(Here follow signatures)

ANNEX TO THE CONVENTION

REGULATIONS RESPECTING THE LAWS AND CUSTOMS OF WAR ON LAND

SECTION I ON BELLIGERENTS

CHAPTER I On the qualifications of belligerents

Article 1. The laws, rights, and duties of war apply not only to armies, but also to militia and volunteer corps fulfilling the following conditions:

1. To be commanded by a person responsible for his subordinates;
2. To have a fixed distinctive emblem recognizable at a distance;
3. To carry arms openly; and
4. To conduct their operations in accordance with the laws and customs of war.

In countries where militia or volunteer corps constitute the army, or form part of it, they are included under the denomination "army."

Art. 2. The population of a territory which has not been occupied who, on the enemy's approach, spontaneously take up arms to resist the invading troops without having time to organize themselves in accordance with Article 1, shall be regarded as belligerent, if they respect the laws and customs of war.

Art. 3. The armed forces of the belligerent parties may consist of combatants and non-combatants. In case of capture by the enemy both have a right to be treated as prisoners of war.

CHAPTER II On prisoners of war

Art. 4. Prisoners of war are in the power of the hostile Government, but not in that of the individuals or corps who captured them. They must be humanely treated. All their personal belongings, except arms, horses, and military papers remain their property.

Art. 5. Prisoners of war may be interned in a town, fortress, camp, or any other locality, and bound not to go beyond certain fixed limits; but they can only be confined as an indispensable measure of safety.

Art. 6. The State may utilize the labour of prisoners of war according to their rank and aptitude. Their

tasks shall not be excessive, and shall have nothing to do with the military operations. Prisoners may be authorized to work for the public service, for private persons, or on their own account.

Work done for the State shall be paid for according to the tariffs in force for soldiers of the national army employed on similar tasks.

When the work is for other branches of the public service or for private persons, the conditions shall be settled in agreement with the military authorities.

The wages of the prisoners shall go towards improving their position, and the balance shall be paid them at the time of their release, after deducting the cost of their maintenance.

Art. 7. The Government into whose hands prisoners of war have fallen is bound to maintain them. Failing a special agreement between the belligerents, prisoners of war shall be treated as regards food, quarters, and clothing, on the same footing as the troops of the Government which has captured them.

Art. 8. Prisoners of war shall be subject to the laws, regulations, and orders in force in the army of the State into whose hands they have fallen. Any act of insubordination warrants the adoption, as regards them, of such measures of severity as may be necessary.

Escaped prisoners, recaptured before they have succeeded in rejoining their army, or before quitting the territory occupied by the army that captured them, are liable to disciplinary punishment.

Prisoners who, after succeeding in escaping are again taken prisoners, are not liable to any punishment for the previous flight.

Art. 9. Every prisoner of war, if questioned, is bound to declare his true name and rank, and if he disregards this rule, he is liable to a curtailment of the advantages accorded to the prisoners of war of his class.

Art. 10. Prisoners of war may be set at liberty on parole if the laws of their country authorize it, and, in such a case, they are bound, on their personal honour, scrupulously to fulfil, both as regards their own Government and the Government by whom they were made prisoners, the engagements they have contracted.

In such cases, their own Government shall not require of nor accept from them any service incompatible with the parole given.

Art. 11. A prisoner of war cannot be forced to accept his liberty on parole; similarly the hostile Government is not obliged to assent to the prisoner's request to be set at liberty on parole.

Art. 12. Any prisoner of war, who is liberated on parole and recaptured, bearing arms against the Government to whom he had pledged his honour, or against the allies of that Government, forfeits his right to be treated as a prisoner of war, and can be brought before the courts.

Art. 13. Individuals who follow an army without directly belonging to it, such as newspaper correspondents and reporters, sutlers, contractors, who fall into the enemy's hands, and whom the latter think fit to detain, have a right to be treated as prisoners of war, provided they can produce a certificate from the military authorities of the army they were accompanying.

Art. 14. A bureau for information relative to prisoners of war is instituted, on the commencement of hostilities, in each of the belligerent States, and, when necessary, in the neutral countries on whose territory belligerents have been received. This bureau is intended to answer all inquiries about prisoners of war, and is furnished by the various services concerned with all the necessary information to enable it to keep an individual return for each prisoner of war. It is kept informed of internments and changes, as well as of admissions into hospital and deaths.

It is also the duty of the information bureau to receive and collect all objects of personal use, valuables, letters, etc., found on the battlefields or left by prisoners who have died in hospital or ambulance, and to transmit them to those interested.

Art. 15. Relief societies for prisoners of war, which are regularly constituted in accordance with the law of the country with the object of serving as the intermediary for charity, shall receive from the belligerents for themselves and their duly accredited agents every facility, within the bounds of military requirements and administrative regulations, for the effective accomplishment of their humane task. Delegates of these societies may be admitted to the places of internment for the distribution of relief, as also to the halting places of repatriated prisoners, if furnished with a personal permit by the military authorities, and on giving an engagement in writing to comply with all their regulations for order and police.

Art. 16. The information bureau shall have the privilege of free postage. Letters, money orders, and valuables, as well as postal parcels destined for the prisoners of war or dispatched by them, shall be free of all postal duties both in the countries of origin and destination, as well as in those they pass through. Gifts and relief in kind for prisoners of war shall be admitted free of all duties of entry and others, as well as of payments for carriage by the Government railways.

Art. 17. Officers taken prisoners may receive, if necessary, the full pay allowed them in this position by their country's regulations, the amount to be repaid by their Government.

Art. 18. Prisoners of war shall enjoy every latitude in the exercise of their religion, including attendance at their own church services, provided only they comply with the regulations for order and police issued by the military authorities.

Art. 19. The wills of prisoners of war are received or drawn up on the same conditions as for soldiers of the national army. The same rules shall be observed regarding death certificates, as well as for the burial of prisoners of war, due regard being paid to their grade and rank.

Art. 20. After the conclusion of peace, the repatriation of prisoners of war shall take place as speedily as possible.

CHAPTER III On the sick and wounded

Art. 21. The obligations of belligerents with regard to the sick and wounded are governed by the Geneva Convention of 22 August 1864, subject to any modifications which may be introduced into it.

SECTION II ON HOSTILITIES

CHAPTER I On means of injuring the enemy, sieges, and bombardments

Art. 22. The right of belligerents to adopt means of injuring the enemy is not unlimited.

Art. 23. Besides the prohibitions provided by special Conventions, it is especially prohibited

- (a) To employ poison or poisoned arms;
- (b) To kill or wound treacherously individuals belonging to the hostile nation or army;
- (c) To kill or wound an enemy who, having laid down arms, or having no longer means of defence, has surrendered at discretion;
- (d) To declare that no quarter will be given;
- (e) To employ arms, projectiles, or material of a nature to cause superfluous injury;
- (f) To make improper use of a flag of truce, the national flag or military ensigns and uniform of the enemy, as well as the distinctive badges of the Geneva Convention;
- (g) To destroy or seize the enemy's property, unless such destruction or seizure be imperatively demanded by the necessities of war.

Art. 24. Ruses of war and the employment of methods necessary to obtain information about the enemy and the country, are considered allowable.

Art. 25. The attack or bombardment of towns, villages, habitations or buildings which are not defended, is prohibited.

Art. 26. The commander of an attacking force, before commencing a bombardment, except in the case of an assault, should do all he can to warn the authorities.

Art. 27. In sieges and bombardments all necessary steps should be taken to spare as far as possible edifices devoted to religion, art, science, and charity, hospitals, and places where the sick and wounded are collected, provided they are not used at the same time for military purposes. The besieged should indicate these buildings or places by some particular and visible signs, which should previously be notified to the assailants.

Art. 28. The pillage of a town or place, even when taken by assault is prohibited

CHAPTER II On spies

Art. 29. An individual can only be considered a spy if, acting clandestinely, or on false pretences, he obtains, or seeks to obtain information in the zone of operations of a belligerent, with the intention of communicating it to the hostile party.

Thus, soldiers not in disguise who have penetrated into the zone of operations of a hostile army to obtain information are not considered spies. Similarly, the following are not considered spies: soldiers or civilians, carrying out their mission openly, charged with the delivery of despatches destined either for their own army or for that of the enemy. To this class belong likewise individuals sent in balloons to deliver despatches, and generally to maintain communication between the various parts of an army or a territory.

Art. 30. A spy taken in the act cannot be punished without previous trial.

Art. 31. A spy who, after rejoining the army to which he belongs, is subsequently captured by the enemy, is treated as a prisoner of war, and incurs no responsibility for his previous acts of espionage.

CHAPTER III On flags of truce

Art. 32. An individual is considered as a parlementaire who is authorized by one of the belligerents to enter into communication with the other, and who carries a white flag. He has a right to inviolability, as well as the trumpeter, bugler, or drummer, the flag-bearer and the interpreter who may accompany him.

Art. 33. The chief to whom a parlementaire is sent is not obliged to receive him in all circumstances. He can take all steps necessary to prevent the parlementaire taking advantage of his mission to obtain information. In case of abuse, he has the right to detain the parlementaire temporarily.

Art. 34. The parlementaire loses his rights of inviolability if it is proved beyond doubt that he has taken advantage of his privileged position to provoke or commit an act of treason.

CHAPTER IV

On capitulations

Art. 35. Capitulations agreed on between the Contracting Parties must be in accordance with the rules of military honour.

When once settled, they must be scrupulously observed by both the parties.

CHAPTER V

On armistices

Art. 36. An armistice suspends military operations by mutual agreement between the belligerent parties. If its duration is not fixed, the belligerent parties can resume operations at any time, provided always the enemy is warned within the time agreed upon, in accordance with the terms of the armistice.

Art. 37. An armistice may be general or local. The first suspends all military operations of the belligerent States; the second, only those between certain fractions of the belligerent armies and in a fixed radius.

Art. 38. An armistice must be notified officially, and in good time, to the competent authorities and the troops. Hostilities are suspended immediately after the notification, or at a fixed date.

Art. 39. It is for the Contracting Parties to settle, in the terms of the armistice, what communications may be held, on the theatre of war, with the population and with each other.

Art. 40. Any serious violation of the armistice by one of the parties gives the other party the right to denounce it, and even, in case of urgency, to recommence hostilities at once.

Art. 41. A violation of the terms of the armistice by private individuals acting on their own initiative, only confers the right of demanding the punishment of the offenders, and, if necessary, indemnity for the losses sustained.

SECTION III

On military authority over hostile territory

Art. 42. Territory is considered occupied when it is actually placed under the authority of the hostile army.

The occupation applies only to the territory where such authority is established, and in a position to assert itself.

Art. 43. The authority of the legitimate power having actually passed into the hands of the occupant, the latter shall take all steps in his power to re-establish and insure, as far as possible, public order and safety, while respecting, unless absolutely prevented, the laws in force in the country.

Art. 44. Any compulsion of the population of occupied territory to take part in military operations against its own country is prohibited.

Art. 45. Any pressure on the population of occupied territory to take the oath to the hostile Power is prohibited.

Art. 46. Family honours and rights, individual lives and private property, as well as religious convictions and liberty, must be respected.

Private property cannot be confiscated.

Art. 47. Pillage is formally prohibited.

Art. 48. If, in the territory occupied, the occupant collects the taxes, dues, and tolls imposed for the benefit of the State, he shall do it, as far as possible, in accordance with the rules in existence and the assessment in force, and will in consequence be bound to defray the expenses of the administration of the occupied territory on the same scale as that by which the legitimate Government was bound.

Art. 49. If, besides the taxes mentioned in the preceding Article, the occupant levies other money taxes in the occupied territory, this can only be for military necessities or the administration of such territory.

Art. 50. No general penalty, pecuniary or otherwise, can be inflicted on the population on account of the acts of individuals for which it cannot be regarded as collectively responsible.

Art. 51. No tax shall be collected except under a written order and on the responsibility of a commander-in-chief.

This collection shall only take place, as far as possible, in accordance with the rules in existence and the assessment of taxes in force.

For every payment a receipt shall be given to the taxpayer.

Art. 52. Neither requisitions in kind nor services can be demanded from communes or inhabitants except for the necessities of the army of occupation. They must be in proportion to the resources of the country, and of such a nature as not to involve the population in the obligation of taking part in military operations against their country.

These requisitions and services shall only be demanded on the authority of the commander in the locality occupied.

The contributions in kind shall, as far as possible, be paid for in ready money; if not, their receipt shall be acknowledged.

Art. 53. An army of occupation can only take possession of the cash, funds, and property liable to requisition belonging strictly to the State, depots arms, means of transport, stores and supplies, and, generally movable property of the State which may be used for military operations.

Railway plant, land telegraphs, telephones, steamers and other ships, apart from cases governed by maritime law, as well as depots of arms and, generally, all kinds of munitions of war, even though belonging to companies or to private persons, are likewise material which may serve for military operations, but they must be restored at the conclusion of peace, and indemnities paid for them.

Art. 54. The plant of railways coming from neutral States, whether the property of those States, or of companies, or of private persons, shall be sent back to them as soon as possible.

Art. 55. The occupying State shall only be regarded as administrator and usufructuary of the public buildings, real property, forests and agricultural works belonging to the hostile State, and situated in the occupied country. It must protect the capital of these properties, and administer it according to the rules of usufruct.

Art. 56. The property of the communes, that of religious, charitable, and educational institutions, and those of arts and science, even when State property, shall be treated as private property.

All seizure of and destruction, or intentional damage done to such institutions, to historical monuments, works of art or science, is prohibited, and should be made the subject of proceedings.

SECTION IV

ON THE INTERNMENT OF BELLIGERENTS AND THE CARE OF THE WOUNDED IN NEUTRAL COUNTRIES

Art. 57. A neutral State which receives in its territory troops belonging to the belligerent armies shall

intern them, as far as possible, at a distance from the theatre of war.

It can keep them in camps, and even confine them in fortresses or locations assigned for this purpose.

It shall decide whether officers may be left at liberty on giving their parole that they will not leave the neutral territory without authorization.

Art. 58. Failing a special convention, the neutral State shall supply the interned with the food, clothing, and relief required by humanity.

At the conclusion of peace, the expenses caused by the internment shall be made good.

Art. 59. A neutral State may authorize the passage over its territory of wounded or sick belonging to the belligerent armies, on condition that the trains bringing them shall carry neither combatants nor war material. In such a case, the neutral State is bound to adopt such measures of safety and control as may be necessary for the purpose.

Wounded and sick brought under these conditions into neutral territory by one of the belligerents, and belonging to the hostile party, must be guarded by the neutral State, so as to insure their not taking part again in the military operations. The same duty shall devolve on the neutral State with regard to wounded or sick of the other army who may be committed to its care.

Art. 60. The Geneva Convention applies to sick and wounded interned in neutral territory.

I N T E R N A T I O N A L H U M A N I T A R I A N L A W

International Committee of the Red Cross

APPENDICE

III

Document printed from the ICRC web site on the 08.01.2008

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

Introduction

General title	Diplomatic Conference of Geneva of 1949.
Forum of adoption	Diplomatic Conference of Geneva of 1949
In force	yes
Entry into force	21.10.1950

This Convention represents the fourth version of the Geneva Convention on the wounded and sick after those adopted in 1864, 1906 and 1929. The fundamental principles as well as the division into chapters remained the same as in the preceding version with the exception of the new introductory chapter on general provisions. Changes were made especially in Chapter IV (personnel). Hitherto, medical personnel and chaplains falling into enemy hands had to be immediately repatriated. The 1949 Convention, taking account of changed conditions of warfare, provides that they may in certain circumstances be retained to care for prisoners of war. The provisions on medical equipment were correspondingly altered. In the chapter on medical transports it was provided that medical aircraft may in certain circumstances fly over neutral territory. Some clarifications were made as regards the article on the use of the emblem (Article 44).

Meetings of forum	21.04.1949 - 12.08.1949, Geneva
Date of adoption	12.08.1949
Depositary	Switzerland
Number of articles	64 + 2 annexes
Authentic text	English; French

I N T E R N A T I O N A L H U M A N I T A R I A N L A W

International Committee of the Red Cross

Document printed from the ICRC web site on the 08.01.2008

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

Full text

Preamble

The undersigned Plenipotentiaries of the Governments represented at the Diplomatic Conference held at Geneva from April 21 to August 12, 1949, for the purpose of revising the Geneva Convention for the Relief of the Wounded and Sick in Armies in the Field of July 27, 1929, have agreed as follows:

Chapter I. General Provisions

Art 1. The High Contracting Parties undertake to respect and to ensure respect for the present Convention in all circumstances.

Art. 2. In addition to the provisions which shall be implemented in peacetime, the present Convention shall apply to all cases of declared war or of any other armed conflict which may arise between two or more of the High Contracting Parties, even if the state of war is not recognized by one of them.

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

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

Art. 3. In the case of armed conflict not of an international character occurring in the territory of one of the High Contracting Parties, each Party to the conflict shall be bound to apply, as a minimum, the following provisions:

(1) Persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed hors de combat by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely, without any adverse distinction founded on race, colour, religion or faith, sex, birth or wealth, or any other similar criteria.

To this end, the following acts are and shall remain prohibited at any time and in any place whatsoever with respect to the above-mentioned persons:

(a) violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture;

(b) taking of hostages;

(c) outrages upon personal dignity, in particular humiliating and degrading treatment;

(d) the passing of sentences and the carrying out of executions without previous judgement pronounced by a regularly constituted court, affording all the judicial guarantees which are recognized as indispensable by civilized peoples.

(2) The wounded and sick shall be collected and cared for.

An impartial humanitarian body, such as the International Committee of the Red Cross, may offer its services to the Parties to the conflict.

The Parties to the conflict should further endeavour to bring into force, by means of special agreements, all or part of the other provisions of the present Convention.

The application of the preceding provisions shall not affect the legal status of the Parties to the conflict.

Art. 4. Neutral Powers shall apply by analogy the provisions of the present Convention to the wounded and sick, and to members of the medical personnel and to chaplains of the armed forces of the Parties to the conflict, received or interned in their territory, as well as to dead persons found.

Art. 5. For the protected persons who have fallen into the hands of the enemy, the present Convention shall apply until their final repatriation.

Art. 6. In addition to the agreements expressly provided for in Articles 10, 15, 23, 28, 31, 36, 37 and 52, the High Contracting Parties may conclude other special agreements for all matters concerning which they may

deem it suitable to make separate provision. No special agreement shall adversely affect the situation of the wounded and sick, of members of the medical personnel or of chaplains, as defined by the present Convention, nor restrict the rights which it confers upon them.

Wounded and sick, as well as medical personnel and chaplains, shall continue to have the benefit of such agreements as long as the Convention is applicable to them, except where express provisions to the contrary are contained in the aforesaid or in subsequent agreements, or where more favourable measures have been taken with regard to them by one or other of the Parties to the conflict.

Art. 7. Wounded and sick, as well as members of the medical personnel and chaplains, may in no circumstances renounce in part or in entirety the rights secured to them by the present Convention, and by the special agreements referred to in the foregoing Article, if such there be.

Art. 8. The present Convention shall be applied with the cooperation and under the scrutiny of the Protecting Powers whose duty it is to safeguard the interests of the Parties to the conflict. For this purpose, the Protecting Powers may appoint, apart from their diplomatic or consular staff, delegates from amongst their own nationals or the nationals of other neutral Powers. The said delegates shall be subject to the approval of the Power with which they are to carry out their duties.

The Parties to the conflict shall facilitate to the greatest extent possible, the task of the representatives or delegates of the Protecting Powers.

The representatives or delegates of the Protecting Powers shall not in any case exceed their mission under the present Convention. They shall, in particular, take account of the imperative necessities of security of the State wherein they carry out their duties. Their activities shall only be restricted as an exceptional and temporary measure when this is rendered necessary by imperative military necessities.

Art. 9. The provisions of the present Convention constitute no obstacle to the humanitarian activities which the International Committee of the Red Cross or any other impartial humanitarian organization may, subject to the consent of the Parties to the conflict concerned, undertake for the protection of wounded and sick, medical personnel and chaplains, and for their relief.

Art. 10. The High Contracting Parties may at any time agree to entrust to an organization which offers all guarantees of impartiality and efficacy the duties incumbent on the Protecting Powers by virtue of the present Convention.

When wounded and sick, or medical personnel and chaplains do not benefit or cease to benefit, no matter for what reason, by the activities of a Protecting Power or of an organization provided for in the first paragraph above, the Detaining Power shall request a neutral State, or such an organization, to undertake the functions performed under the present Convention by a Protecting Power designated by the Parties to a conflict.

If protection cannot be arranged accordingly, the Detaining Power shall request or shall accept, subject to the provisions of this Article, the offer of the services of a humanitarian organization, such as the International Committee of the Red Cross, to assume the humanitarian functions performed by Protecting Powers under the present Convention.

Any neutral Power, or any organization invited by the Power concerned or offering itself for these purposes, shall be required to act with a sense of responsibility towards the Party to the conflict on which persons protected by the present Convention depend, and shall be required to furnish sufficient assurances that it is in a position to undertake the appropriate functions and to discharge them impartially.

No derogation from the preceding provisions shall be made by special agreements between Powers one of which is restricted, even temporarily, in its freedom to negotiate with the other Power or its allies by reason of military events, more particularly where the whole, or a substantial part, of the territory of the said Power is occupied.

Whenever, in the present Convention, mention is made of a Protecting Power, such mention also applies to substitute organizations in the sense of the present Article.

Art. 11. In cases where they deem it advisable in the interest of protected persons, particularly in cases of disagreement between the Parties to the conflict as to the application or interpretation of the provisions of the present Convention, the Protecting Powers shall lend their good offices with a view to settling the disagreement.

For this purpose, each of the Protecting Powers may, either at the invitation of one Party or on its own initiative, propose to the Parties to the conflict a meeting of their representatives, in particular of the

authorities responsible for the wounded and sick, members of medical personnel and chaplains, possibly on neutral territory suitably chosen. The Parties to the conflict shall be bound to give effect to the proposals made to them for this purpose. The Protecting Powers may, if necessary, propose for approval by the Parties to the conflict, a person belonging to a neutral Power or delegated by the International Committee of the Red Cross, who shall be invited to take part in such a meeting

Chapter II. Wounded and Sick

Art. 12. Members of the armed forces and other persons mentioned in the following Article, who are wounded or sick, shall be respected and protected in all circumstances.

They shall be treated humanely and cared for by the Party to the conflict in whose power they may be, without any adverse distinction founded on sex, race, nationality, religion, political opinions, or any other similar criteria. Any attempts upon their lives, or violence to their persons, shall be strictly prohibited; in particular, they shall not be murdered or exterminated, subjected to torture or to biological experiments; they shall not wilfully be left without medical assistance and care, nor shall conditions exposing them to contagion or infection be created.

Only urgent medical reasons will authorize priority in the order of treatment to be administered.

Women shall be treated with all consideration due to their sex. The Party to the conflict which is compelled to abandon wounded or sick to the enemy shall, as far as military considerations permit, leave with them a part of its medical personnel and material to assist in their care.

Art. 13. The present Convention shall apply to the wounded and sick belonging to the following categories:

(1) Members of the armed forces of a Party to the conflict, as well as members of militias or volunteer corps forming part of such armed forces.

(2) Members of other militias and members of other volunteer corps, including those of organized resistance movements, belonging to a Party to the conflict and operating in or outside their own territory, even if this territory is occupied, provided that such militias or volunteer corps, including such organized resistance movements, fulfil the following conditions:

(a) that of being commanded by a person responsible for his subordinates;

(b) that of having a fixed distinctive sign recognizable at a distance;

(c) that of carrying arms openly;

(d) that of conducting their operations in accordance with the laws and customs of war.

(3) Members of regular armed forces who profess allegiance to a Government or an authority not recognized by the Detaining Power.

(4) Persons who accompany the armed forces without actually being members thereof, such as civil members of military aircraft crews, war correspondents, supply contractors, members of labour units or of services responsible for the welfare of the armed forces, provided that they have received authorization from the armed forces which they accompany.

(5) Members of crews, including masters, pilots and apprentices, of the merchant marine and the crews of civil aircraft of the Parties to the conflict, who do not benefit by more favourable treatment under any other provisions in international law.

(6) Inhabitants of a non-occupied territory, who on the approach of the enemy, spontaneously take up arms to resist the invading forces, without having had time to form themselves into regular armed units, provided they carry arms openly and respect the laws and customs of war.

Art. 14. Subject to the provisions of Article 12, the wounded and sick of a belligerent who fall into enemy hands shall be prisoners of war, and the provisions of international law concerning prisoners of war shall apply to them.

Art. 15. At all times, and particularly after an engagement, Parties to the conflict shall, without delay, take all possible measures to search for and collect the wounded and sick, to protect them against pillage and ill-treatment, to ensure their adequate care, and to search for the dead and prevent their being despoiled.

Whenever circumstances permit, an armistice or a suspension of fire shall be arranged, or local arrangements made, to permit the removal, exchange and transport of the wounded left on the battlefield.

Likewise, local arrangements may be concluded between Parties to the conflict for the removal or exchange of wounded and sick from a besieged or encircled area, and for the passage of medical and religious personnel and equipment on their way to that area.

Art. 16. Parties to the conflict shall record as soon as possible, in respect of each wounded, sick or dead

person of the adverse Party falling into their hands, any particulars which may assist in his identification.

These records should if possible include:

- (a) designation of the Power on which he depends;
- (b) army, regimental, personal or serial number;
- (c) surname;
- (d) first name or names;
- (e) date of birth;
- (f) any other particulars shown on his identity card or disc;
- (g) date and place of capture or death;
- (h) particulars concerning wounds or illness, or cause of death.

As soon as possible the above mentioned information shall be forwarded to the Information Bureau described in Article 122 of the Geneva Convention relative to the Treatment of Prisoners of War of 12 August 1949, which shall transmit this information to the Power on which these persons depend through the intermediary of the Protecting Power and of the Central Prisoners of War Agency.

Parties to the conflict shall prepare and forward to each other through the same bureau, certificates of death or duly authenticated lists of the dead. They shall likewise collect and forward through the same bureau one half of a double identity disc, last wills or other documents of importance to the next of kin, money and in general all articles of an intrinsic or sentimental value, which are found on the dead. These articles, together with unidentified articles, shall be sent in sealed packets, accompanied by statements giving all particulars necessary for the identification of the deceased owners, as well as by a complete list of the contents of the parcel.

Art. 17. Parties to the conflict shall ensure that burial or cremation of the dead, carried out individually as far as circumstances permit, is preceded by a careful examination, if possible by a medical examination, of the bodies, with a view to confirming death, establishing identity and enabling a report to be made. One half of the double identity disc, or the identity disc itself if it is a single disc, should remain on the body.

Bodies shall not be cremated except for imperative reasons of hygiene or for motives based on the religion of the deceased. In case of cremation, the circumstances and reasons for cremation shall be stated in detail in the death certificate or on the authenticated list of the dead.

They shall further ensure that the dead are honourably interred, if possible according to the rites of the religion to which they belonged, that their graves are respected, grouped if possible according to the nationality of the deceased, properly maintained and marked so that they may always be found. For this purpose, they shall organize at the commencement of hostilities an Official Graves Registration Service, to allow subsequent exhumations and to ensure the identification of bodies, whatever the site of the graves, and the possible transportation to the home country. These provisions shall likewise apply to the ashes, which shall be kept by the Graves Registration Service until proper disposal thereof in accordance with the wishes of the home country.

As soon as circumstances permit, and at latest at the end of hostilities, these Services shall exchange, through the Information Bureau mentioned in the second paragraph of Article 16, lists showing the exact location and markings of the graves, together with particulars of the dead interred therein.

Art. 18. The military authorities may appeal to the charity of the inhabitants voluntarily to collect and care for, under their direction, the wounded and sick, granting persons who have responded to this appeal the necessary protection and facilities. Should the adverse Party take or retake control of the area, he shall likewise grant these persons the same protection and the same facilities.

The military authorities shall permit the inhabitants and relief societies, even in invaded or occupied areas, spontaneously to collect and care for wounded or sick of whatever nationality. The civilian population shall respect these wounded and sick, and in particular abstain from offering them violence.

No one may ever be molested or convicted for having nursed the wounded or sick.

The provisions of the present Article do not relieve the occupying Power of its obligation to give both physical and moral care to the wounded and sick.

Chapter III. Medical Units and Establishments

Art. 19. Fixed establishments and mobile medical units of the Medical Service may in no circumstances be attacked, but shall at all times be respected and protected by the Parties to the conflict. Should they fall into the hands of the adverse Party, their personnel shall be free to pursue their duties, as long as the capturing

Power has not itself ensured the necessary care of the wounded and sick found in such establishments and units.

The responsible authorities shall ensure that the said medical establishments and units are, as far as possible, situated in such a manner that attacks against military objectives cannot imperil their safety.

Art. 20. Hospital ships entitled to the protection of the Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea of 12 August 1949, shall not be attacked from the land.

Art. 21. The protection to which fixed establishments and mobile medical units of the Medical Service are entitled shall not cease unless they are used to commit, outside their humanitarian duties, acts harmful to the enemy. Protection may, however, cease only after a due warning has been given, naming, in all appropriate cases, a reasonable time limit, and after such warning has remained unheeded.

Art. 22. The following conditions shall not be considered as depriving a medical unit or establishment of the protection guaranteed by Article 19:

- (1) That the personnel of the unit or establishment are armed, and that they use the arms in their own defence, or in that of the wounded and sick in their charge.
- (2) That in the absence of armed orderlies, the unit or establishment is protected by a picket or by sentries or by an escort.
- (3) That small arms and ammunition taken from the wounded and sick and not yet handed to the proper service, are found in the unit or establishment.
- (4) That personnel and material of the veterinary service are found in the unit or establishment, without forming an integral part thereof.
- (5) That the humanitarian activities of medical units and establishments or of their personnel extend to the care of civilian wounded or sick.

Art. 23. In time of peace, the High Contracting Parties and, after the outbreak of hostilities, the Parties thereto, may establish in their own territory and, if the need arises, in occupied areas, hospital zones and localities so organized as to protect the wounded and sick from the effects of war, as well as the personnel entrusted with the organization and administration of these zones and localities and with the care of the persons therein assembled.

Upon the outbreak and during the course of hostilities, the Parties concerned may conclude agreements on mutual recognition of the hospital zones and localities they have created. They may for this purpose implement the provisions of the Draft Agreement annexed to the present Convention, with such amendments as they may consider necessary.

The Protecting Powers and the International Committee of the Red Cross are invited to lend their good offices in order to facilitate the institution and recognition of these hospital zones and localities.

Chapter IV. Personnel

Art. 24. Medical personnel exclusively engaged in the search for, or the collection, transport or treatment of the wounded or sick, or in the prevention of disease, staff exclusively engaged in the administration of medical units and establishments, as well as chaplains attached to the armed forces, shall be respected and protected in all circumstances.

Art. 25. Members of the armed forces specially trained for employment, should the need arise, as hospital orderlies, nurses or auxiliary stretcher-bearers, in the search for or the collection, transport or treatment of the wounded and sick shall likewise be respected and protected if they are carrying out these duties at the time when they come into contact with the enemy or fall into his hands.

Art. 26. The staff of National Red Cross Societies and that of other Voluntary Aid Societies, duly recognized and authorized by their Governments, who may be employed on the same duties as the personnel named in Article 24, are placed on the same footing as the personnel named in the said Article, provided that the staff of such societies are subject to military laws and regulations.

Each High Contracting Party shall notify to the other, either in time of peace or at the commencement of or during hostilities, but in any case before actually employing them, the names of the societies which it has authorized, under its responsibility, to render assistance to the regular medical service of its armed forces.

Art. 27. A recognized Society of a neutral country can only lend the assistance of its medical personnel and units to a Party to the conflict with the previous consent of its own Government and the authorization of the

Party to the conflict concerned. That personnel and those units shall be placed under the control of that Party to the conflict.

The neutral Government shall notify this consent to the adversary of the State which accepts such assistance. The Party to the conflict who accepts such assistance is bound to notify the adverse Party thereof before making any use of it.

In no circumstances shall this assistance be considered as interference in the conflict.

The members of the personnel named in the first paragraph shall be duly furnished with the identity cards provided for in Article 40 before leaving the neutral country to which they belong.

Art. 28. Personnel designated in Articles 24 and 26 who fall into the hands of the adverse Party, shall be retained only in so far as the state of health, the spiritual needs and the number of prisoners of war require.

Personnel thus retained shall not be deemed prisoners of war. Nevertheless they shall at least benefit by all the provisions of the Geneva Convention relative to the Treatment of Prisoners of War of 12 August 1949. Within the framework of the military laws and regulations of the Detaining Power, and under the authority of its competent service, they shall continue to carry out, in accordance with their professional ethics, their medical and spiritual duties on behalf of prisoners of war, preferably those of the armed forces to which they themselves belong. They shall further enjoy the following facilities for carrying out their medical or spiritual duties:

(a) They shall be authorized to visit periodically the prisoners of war in labour units or hospitals outside the camp. The Detaining Power shall put at their disposal the means of transport required.

(b) In each camp the senior medical officer of the highest rank shall be responsible to the military authorities of the camp for the professional activity of the retained medical personnel. For this purpose, from the outbreak of hostilities, the Parties to the conflict shall agree regarding the corresponding seniority of the ranks of their medical personnel, including those of the societies designated in Article 26. In all questions arising out of their duties, this medical officer, and the chaplains, shall have direct access to the military and medical authorities of the camp who shall grant them the facilities they may require for correspondence relating to these questions.

(c) Although retained personnel in a camp shall be subject to its internal discipline, they shall not, however, be required to perform any work outside their medical or religious duties.

During hostilities the Parties to the conflict shall make arrangements for relieving where possible retained personnel, and shall settle the procedure of such relief.

None of the preceding provisions shall relieve the Detaining Power of the obligations imposed upon it with regard to the medical and spiritual welfare of the prisoners of war.

Art. 29. Members of the personnel designated in Article 25 who have fallen into the hands of the enemy, shall be prisoners of war, but shall be employed on their medical duties in so far as the need arises.

Art. 30. Personnel whose retention is not indispensable by virtue of the provisions of Article 28 shall be returned to the Party to the conflict to whom they belong, as soon as a road is open for their return and military requirements permit.

Pending their return, they shall not be deemed prisoners of war. Nevertheless they shall at least benefit by all the provisions of the Geneva Convention relative to the Treatment of Prisoners of War of 12 August 1949. They shall continue to fulfil their duties under the orders of the adverse Party and shall preferably be engaged in the care of the wounded and sick of the Party to the conflict to which they themselves belong.

On their departure, they shall take with them the effects, personal belongings, valuables and instruments belonging to them.

Art. 31. The selection of personnel for return under Article 30 shall be made irrespective of any consideration of race, religion or political opinion, but preferably according to the chronological order of their capture and their state of health.

As from the outbreak of hostilities, Parties to the conflict may determine by special agreement the percentage of personnel to be retained, in proportion to the number of prisoners and the distribution of the said personnel in the camps.

Art. 32. Persons designated in Article 27 who have fallen into the hands of the adverse Party may not be detained.

Unless otherwise agreed, they shall have permission to return to their country, or if this is not possible, to the territory of the Party to the conflict in whose service they were, as soon as a route for their return is open and military considerations permit.

Pending their release, they shall continue their work under the direction of the adverse Party; they shall preferably be engaged in the care of the wounded and sick of the Party to the conflict in whose service they were. On their departure, they shall take with them their effects personal articles and valuables and the instruments, arms and if possible the means of transport belonging to them.

The Parties to the conflict shall secure to this personnel, while in their power, the same food, lodging, allowances and pay as are granted to the corresponding personnel of their armed forces. The food shall in any case be sufficient as regards quantity, quality and variety to keep the said personnel in a normal state of health.

Chapter V. Buildings and Material

Art. 33. The material of mobile medical units of the armed forces which fall into the hands of the enemy, shall be reserved for the care of wounded and sick.

The buildings, material and stores of fixed medical establishments of the armed forces shall remain subject to the laws of war, but may not be diverted from their purpose as long as they are required for the care of wounded and sick. Nevertheless, the commanders of forces in the field may make use of them, in case of urgent military necessity, provided that they make previous arrangements for the welfare of the wounded and sick who are nursed in them.

The material and stores defined in the present Article shall not be intentionally destroyed.

Art. 34. The real and personal property of aid societies which are admitted to the privileges of the Convention shall be regarded as private property.

The right of requisition recognized for belligerents by the laws and customs of war shall not be exercised except in case of urgent necessity, and only after the welfare of the wounded and sick has been ensured.

Chapter VI. Medical Transports

Art. 35. Transports of wounded and sick or of medical equipment shall be respected and protected in the same way as mobile medical units.

Should such transports or vehicles fall into the hands of the adverse Party, they shall be subject to the laws of war, on condition that the Party to the conflict who captures them shall in all cases ensure the care of the wounded and sick they contain.

The civilian personnel and all means of transport obtained by requisition shall be subject to the general rules of international law.

Art. 36. Medical aircraft, that is to say, aircraft exclusively employed for the removal of wounded and sick and for the transport of medical personnel and equipment, shall not be attacked, but shall be respected by the belligerents, while flying at heights, times and on routes specifically agreed upon between the belligerents concerned.

They shall bear, clearly marked, the distinctive emblem prescribed in Article 38, together with their national colours on their lower, upper and lateral surfaces. They shall be provided with any other markings or means of identification that may be agreed upon between the belligerents upon the outbreak or during the course of hostilities.

Unless agreed otherwise, flights over enemy or enemy-occupied territory are prohibited.

Medical aircraft shall obey every summons to land. In the event of a landing thus imposed, the aircraft with its occupants may continue its flight after examination, if any.

In the event of an involuntary landing in enemy or enemy-occupied territory, the wounded and sick, as well as the crew of the aircraft shall be prisoners of war. The medical personnel shall be treated according to Article

24 and the Articles following.

Art. 37. Subject to the provisions of the second paragraph, medical aircraft of Parties to the conflict may fly over the territory of neutral Powers, land on it in case of necessity, or use it as a port of call. They shall give the neutral Powers previous notice of their passage over the said territory and obey all summons to alight, on land or water. They will be immune from attack only when flying on routes, at heights and at times specifically agreed upon between the Parties to the conflict and the neutral Power concerned.

The neutral Powers may, however, place conditions or restrictions on the passage or landing of medical aircraft on their territory. Such possible conditions or restrictions shall be applied equally to all Parties to the conflict.

Unless agreed otherwise between the neutral Power and the Parties to the conflict, the wounded and sick who are disembarked, with the consent of the local authorities, on neutral territory by medical aircraft, shall be detained by the neutral Power, where so required by international law, in such a manner that they cannot again take part in operations of war. The cost of their accommodation and internment shall be borne by the Power on which they depend.

Chapter VII. The Distinctive Emblem

Art. 38. As a compliment to Switzerland, the heraldic emblem of the red cross on a white ground, formed by reversing the Federal colours, is retained as the emblem and distinctive sign of the Medical Service of armed forces.

Nevertheless, in the case of countries which already use as emblem, in place of the red cross, the red crescent or the red lion and sun on a white ground, those emblems are also recognized by the terms of the present Convention.

Art. 39. Under the direction of the competent military authority, the emblem shall be displayed on the flags, armlets and on all equipment employed in the Medical Service.

Art. 40. The personnel designated in Article 24 and in Articles 26 and 27 shall wear, affixed to the left arm, a water-resistant armlet bearing the distinctive emblem, issued and stamped by the military authority.

Such personnel, in addition to wearing the identity disc mentioned in Article 16, shall also carry a special identity card bearing the distinctive emblem. This card shall be water-resistant and of such size that it can be carried in the pocket. It shall be worded in the national language, shall mention at least the surname and first names, the date of birth, the rank and the service number of the bearer, and shall state in what capacity he is entitled to the protection of the present Convention. The card shall bear the photograph of the owner and also either his signature or his finger-prints or both. It shall be embossed with the stamp of the military authority.

The identity card shall be uniform throughout the same armed forces and, as far as possible, of a similar type in the armed forces of the High Contracting Parties. The Parties to the conflict may be guided by the model which is annexed, by way of example, to the present Convention. They shall inform each other, at the outbreak of hostilities, of the model they are using. Identity cards should be made out, if possible, at least in duplicate, one copy being kept by the home country.

In no circumstances may the said personnel be deprived of their insignia or identity cards nor of the right to wear the armlet. In case of loss, they shall be entitled to receive duplicates of the cards and to have the insignia replaced.

Art. 41. The personnel designated in Article 25 shall wear, but only while carrying out medical duties, a white armlet bearing in its centre the distinctive sign in miniature; the armlet shall be issued and stamped by the military authority.

Military identity documents to be carried by this type of personnel shall specify what special training they have received, the temporary character of the duties they are engaged upon, and their authority for wearing the armlet.

Art. 42. The distinctive flag of the Convention shall be hoisted only over such medical units and establishments as are entitled to be respected under the Convention, and only with the consent of the military authorities. In mobile units, as in fixed establishments, it may be accompanied by the national flag of the Party to the conflict to which the unit or establishment belongs.

Nevertheless, medical units which have fallen into the hands of the enemy shall not fly any flag other than

that of the Convention. Parties to the conflict shall take the necessary steps, in so far as military considerations permit, to make the distinctive emblems indicating medical units and establishments clearly visible to the enemy land, air or naval forces, in order to obviate the possibility of any hostile action.

Art. 43. The medical units belonging to neutral countries, which may have been authorized to lend their services to a belligerent under the conditions laid down in Article 27, shall fly, along with the flag of the Convention, the national flag of that belligerent, wherever the latter makes use of the faculty conferred on him by Article 42.

Subject to orders to the contrary by the responsible military authorities, they may on all occasions fly their national flag, even if they fall into the hands of the adverse Party.

Art. 44. With the exception of the cases mentioned in the following paragraphs of the present Article, the emblem of the red cross on a white ground and the words " Red Cross" or " Geneva Cross " may not be employed, either in time of peace or in time of war, except to indicate or to protect the medical units and establishments, the personnel and material protected by the present Convention and other Conventions dealing with similar matters. The same shall apply to the emblems mentioned in Article 38, second paragraph, in respect of the countries which use them. The National Red Cross Societies and other societies designated in Article 26 shall have the right to use the distinctive emblem conferring the protection of the Convention only within the framework of the present paragraph.

Furthermore, National Red Cross (Red Crescent, Red Lion and Sun) Societies may, in time of peace, in accordance with their national legislation, make use of the name and emblem of the Red Cross for their other activities which are in conformity with the principles laid down by the International Red Cross Conferences. When those activities are carried out in time of war, the conditions for the use of the emblem shall be such that it cannot be considered as conferring the protection of the Convention; the emblem shall be comparatively small in size and may not be placed on armlets or on the roofs of buildings.

The international Red Cross organizations and their duly authorized personnel shall be permitted to make use, at all times, of the emblem of the red cross on a white ground.

As an exceptional measure, in conformity with national legislation and with the express permission of one of the National Red Cross (Red Crescent, Red Lion and Sun) Societies, the emblem of the Convention may be employed in time of peace to identify vehicles used as ambulances and to mark the position of aid stations exclusively assigned to the purpose of giving free treatment to the wounded or sick.

Chapter VIII. Execution of the Convention

Art. 45. Each Party to the conflict, acting through its Commanders-in-Chief, shall ensure the detailed execution of the preceding Articles, and provide for unforeseen cases, in conformity with the general principles of the present Convention.

Art. 46. Reprisals against the wounded, sick, personnel, buildings or equipment protected by the Convention are prohibited.

Art. 47. The High Contracting Parties undertake, in time of peace as in time of war, to disseminate the text of the present Convention as widely as possible in their respective countries, and, in particular, to include the study thereof in their programmes of military and, if possible, civil instruction, so that the principles thereof may become known to the entire population, in particular to the armed fighting forces, the medical personnel and the chaplains.

Art. 48. The High Contracting Parties shall communicate to one another through the Swiss Federal Council and, during hostilities, through the Protecting Powers, the official translations of the present Convention, as well as the laws and regulations which they may adopt to ensure the application thereof.

Chapter IX. Repression of Abuses and Infractions

Art. 49. The High Contracting Parties undertake to enact any legislation necessary to provide effective penal sanctions for persons committing, or ordering to be committed, any of the grave breaches of the present Convention defined in the following Article.

Each High Contracting Party shall be under the obligation to search for persons alleged to have committed, or to have ordered to be committed, such grave breaches, and shall bring such persons, regardless of their nationality, before its own courts. It may also, if it prefers, and in accordance with the provisions of its own

legislation, hand such persons over for trial to another High Contracting Party concerned, provided such High Contracting Party has made out a prima facie case.

Each High Contracting Party shall take measures necessary for the suppression of all acts contrary to the provisions of the present Convention other than the grave breaches defined in the following Article.

In all circumstances, the accused persons shall benefit by safeguards of proper trial and defence, which shall not be less favourable than those provided by Article 105 and those following, of the Geneva Convention relative to the Treatment of Prisoners of War of 12 August 1949.

Art. 50. Grave breaches to which the preceding Article relates shall be those involving any of the following acts, if committed against persons or property protected by the Convention: wilful killing, torture or inhuman treatment, including biological experiments, wilfully causing great suffering or serious injury to body or health, and extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly.

Art. 51. No High Contracting Party shall be allowed to absolve itself or any other High Contracting Party of any liability incurred by itself or by another High Contracting Party in respect of breaches referred to in the preceding Article.

Art. 52. At the request of a Party to the conflict, an enquiry shall be instituted, in a manner to be decided between the interested Parties, concerning any alleged violation of the Convention.

If agreement has not been reached concerning the procedure for the enquiry, the Parties should agree on the choice of an umpire who will decide upon the procedure to be followed.

Once the violation has been established, the Parties to the conflict shall put an end to it and shall repress it with the least possible delay.

Art. 53. The use by individuals, societies, firms or companies either public or private, other than those entitled thereto under the present Convention, of the emblem or the designation " Red Cross " or " Geneva Cross " or any sign or designation constituting an imitation thereof, whatever the object of such use, and irrespective of the date of its adoption, shall be prohibited at all times.

By reason of the tribute paid to Switzerland by the adoption of the reversed Federal colours, and of the confusion which may arise between the arms of Switzerland and the distinctive emblem of the Convention, the use by private individuals, societies or firms, of the arms of the Swiss Confederation, or of marks constituting an imitation thereof, whether as trademarks or commercial marks, or as parts of such marks, or for a purpose contrary to commercial honesty, or in circumstances capable of wounding Swiss national sentiment, shall be prohibited at all times.

Nevertheless, such High Contracting Parties as were not party to the Geneva Convention of 27 July 1929, may grant to prior users of the emblems, designations, signs or marks designated in the first paragraph, a time limit not to exceed three years from the coming into force of the present Convention to discontinue such use provided that the said use shall not be such as would appear, in time of war, to confer the protection of the Convention.

The prohibition laid down in the first paragraph of the present Article shall also apply, without effect on any rights acquired through prior use, to the emblems and marks mentioned in the second paragraph of Article 38.

Art. 54. The High Contracting Parties shall, if their legislation is not already adequate, take measures necessary for the prevention and repression, at all times, of the abuses referred to under Article 53

Final Provisions

Art. 55. The present Convention is established in English and in French. Both texts are equally authentic.

The Swiss Federal Council shall arrange for official translations of the Convention to be made in the Russian and Spanish languages.

Art. 56. The present Convention, which bears the date of this day, is open to signature until 12 February 1950, in the name of the Powers represented at the Conference which opened at Geneva on 21 April 1949; furthermore, by Powers not represented at that Conference but which are Parties to the Geneva Conventions of 1864, 1906 or 1929 for the Relief of the Wounded and Sick in Armies in the Field.

Art. 57. The present Convention shall be ratified as soon as possible and the ratifications shall be deposited at Berne. A record shall be drawn up of the deposit of each instrument of ratification and certified copies of this record shall be transmitted by the Swiss Federal Council to all the Powers in whose name the Convention has been signed, or whose accession has been notified.

Art. 58. The present Convention shall come into force six months after not less than two instruments of ratification have been deposited.

Thereafter, it shall come into force for each High Contracting Party six months after the deposit of the instrument of ratification.

Art. 59. The present Convention replaces the Conventions of 22 August 1864, 6 July 1906, and 27 July 1929, in relations between the High Contracting Parties.

Art. 60. From the date of its coming into force, it shall be open to any Power in whose name the present Convention has not been signed, to accede to this Convention.

Art. 61. Accessions shall be notified in writing to the Swiss Federal Council, and shall take effect six months after the date on which they are received.

The Swiss Federal Council shall communicate the accessions to all the Powers in whose name the Convention has been signed, or whose accession has been notified.

Art. 62. The situations provided for in Articles 2 and 3 shall give immediate effect to ratifications deposited and accessions notified by the Parties to the conflict before or after the beginning of hostilities or occupation. The Swiss Federal Council shall communicate by the quickest method any ratifications or accessions received from Parties to the conflict.

Art. 63. Each of the High Contracting Parties shall be at liberty to denounce the present Convention.

The denunciation shall be notified in writing to the Swiss Federal Council, which shall transmit it to the Governments of all the High Contracting Parties.

The denunciation shall take effect one year after the notification thereof has been made to the Swiss Federal Council. However, a denunciation of which notification has been made at a time when the denouncing Power is involved in a conflict shall not take effect until peace has been concluded, and until after operations connected with release and repatriation of the persons protected by the present Convention have been terminated.

The denunciation shall have effect only in respect of the denouncing Power. It shall in no way impair the obligations which the Parties to the conflict shall remain bound to fulfil by virtue of the principles of the law of nations, as they result from the usages established among civilized peoples, from the laws of humanity and the dictates of the public conscience.

Art. 64. The Swiss Federal Council shall register the present Convention with the Secretariat of the United Nations. The Swiss Federal Council shall also inform the Secretariat of the United Nations of all ratifications, accessions and denunciations received by it with respect to the present Convention.

In witness whereof the undersigned, having deposited their respective full powers, have signed the present Convention.

Done at Geneva this twelfth day of August 1949, in the English and French languages. The original shall be deposited in the archives of the Swiss Confederation. The Swiss Federal Council shall transmit certified copies thereof to each of the Signatory and Acceding States.

Annex I. Draft Agreement Relating to Hospital Zones and Localities

Article 1. Hospital zones shall be strictly observed for the persons named in Article 23 of the Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in the Armed Forces in the Field of 12 August 1949, and for the personnel entrusted with the organization and administration of these zones and localities, and with the care of the persons therein assembled.

Nevertheless, persons whose permanent residence is within such zones shall have the right to stay there.

Art. 2. No persons residing, in whatever capacity, in a hospital zone shall perform any work, either within or without the zone, directly connected with military operations or the production of war material.

Art. 3. The Power establishing a hospital zone shall take all necessary measures to prohibit access to all persons who have no right of residence or entry therein.

Art. 4. Hospital zones shall fulfil the following conditions:

- (a) They shall comprise only a small part of the territory governed by the Power which has established them.
- (b) They shall be thinly populated in relation to the possibilities of accommodation.
- (c) They shall be far removed and free from all military objectives, or large industrial or administrative establishments.
- (d) They shall not be situated in areas which, according to every probability, may become important for the conduct of the war.

Art. 5. Hospital zones shall be subject to the following obligations:

- (a) The lines of communication and means of transport which they possess shall not be used for the transport of military personnel or material, even in transit.
- (b) They shall in no case be defended by military means.

Art. 6. Hospital zones shall be marked by means of red crosses (red crescents, red lions and suns) on a white background placed on the outer precincts and on the buildings. They may be similarly marked at night by means of appropriate illumination.

Art. 7. The Powers shall communicate to all High Contracting Parties in peacetime or on the outbreak of hostilities, a list of the hospital zones in the territories governed by them. They shall also give notice of any new zones set up during hostilities.

As soon as the adverse Party has received the above-mentioned notification, the zone shall be regularly constituted.

If, however, the adverse Party considers that the conditions of the present agreement have not been fulfilled, it may refuse to recognize the zone by giving immediate notice thereof to the Party responsible for the said zone, or may make its recognition of such zone dependent upon the institution of the control provided for in Article 8.

Art. 8. Any Power having recognized one of several hospital zones instituted by the adverse Party shall be entitled to demand control by one or more Special Commissioners, for the purpose of ascertaining if the zones fulfil the conditions and obligations stipulated in the present agreement.

For this purpose, the members of the Special Commissions shall at all times have free access to the various zones and may even reside there permanently. They shall be given all facilities for their duties of inspection.

Art. 9. Should the Special Commissions note any facts which they consider contrary to the stipulations of the present agreement, they shall at once draw the attention of the Power governing the said zone to these facts, and shall fix a time limit of five days within which the matter should be rectified. They shall duly notify the Power who has recognized the zone.

If, when the time limit has expired, the Power governing the zone has not complied with the warning, the adverse Party may declare that it is no longer bound by the present agreement in respect of the said zone.

Art. 10. Any Power setting up one or more hospital zones and localities, and the adverse Parties to whom their existence has been notified, shall nominate or have nominated by neutral Powers, the persons who shall be members of the Special Commissions mentioned in Articles 8 and 9.

Art. 11. In no circumstances may hospital zones be the object of attack. They shall be protected and respected at all times by the Parties to the conflict.

Art. 12. In the case of occupation of a territory, the hospital zones therein shall continue to be respected and utilized as such.



Their purpose may, however, be modified by the Occupying Power, on condition that all measures are taken to ensure the safety of the persons accommodated.

Art. 13. The present agreement shall also apply to localities which the Powers may utilize for the same purposes as hospital zones.

Annex II.

Identity Card for Members of Medical and Religious Personnel attached to the Armed Forces

Front


 Spaces reserved for the name of the country and military authority issuing this card
 

IDENTITY CARD

for members of medical and religious personnel attached to the armed forces

Surname

First names

Date of Birth

Rank

Army Number

The bearer of this card is protected by the Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field of August 12, 1949, in his capacity as

.....

Date of Issue
Number of Card

Reverse Side

Signature of bearer or fingerprints or both

Photo of bearer

Embossed stamp of military authority issuing card

Height	Eyes	Hair
Other distinguishing marks		

I N T E R N A T I O N A L H U M A N I T A R I A N L A W

International Committee of the Red Cross

APPENDICE

IV

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

Introduction

General title	Diplomatic Conference of Geneva of 1949.
Forum of adoption	Diplomatic Conference of Geneva of 1949
In force	yes
Entry into force	21.10.1950

The present Convention replaced Hague Convention (X) of 1907 for the Adaptation to Maritime Warfare of the Principles of the Geneva Convention. It contains 63 Articles whereas the 1907 Convention had only 28. This extension is mainly due to the fact that the present Convention is conceived as a complete and independent Convention whereas the 1907 Convention restricted itself to adapting to maritime warfare the principles of the Convention on the wounded and sick in land warfare. In its structure the 1949 Convention follows closely the provisions of Geneva Convention (I) of 1949.

Meetings of forum	21.04.1949 - 12.08.1949, Geneva
Date of adoption	12.08.1949
Depositary	Switzerland
Number of articles	63 + 1 annex
Authentic text	English; French

I N T E R N A T I O N A L H U M A N I T A R I A N L A W

International Committee of the Red Cross

Document printed from the ICRC web site on the 08.01.2008

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

Full text

Preamble

The undersigned Plenipotentiaries of the Governments represented at the Diplomatic Conference held at Geneva from April 21 to August 12, 1949, for the purpose of revising the Xth Hague Convention of October 18, 1907 for the Adaptation to Maritime Warfare of the Principles of the Geneva Convention of 1906, have agreed as follows:

Chapter I. General Provisions

Art 1. The High Contracting Parties undertake to respect and to ensure respect for the present Convention in all circumstances.

Art 2. In addition to the provisions which shall be implemented in peacetime, the present Convention shall apply to all cases of declared war or of any other armed conflict which may arise between two or more of the High Contracting Parties, even if the state of war is not recognized by one of them.

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

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

Art 3. In the case of armed conflict not of an international character occurring in the territory of one of the High Contracting Parties, each Party to the conflict shall be bound to apply, as a minimum, the following provisions:

(1) Persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed hors de combat by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely, without any adverse distinction founded on race, colour, religion or faith, sex, birth or wealth, or any other similar criteria.

To this end, the following acts are and shall remain prohibited at any time and in any place whatsoever with respect to the above-mentioned persons:

(a) violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture;

(b) taking of hostages;

(c) outrages upon personal dignity, in particular, humiliating and degrading treatment;

(d) the passing of sentences and the carrying out of executions without previous judgement pronounced by a regularly constituted court, affording all the judicial guarantees which are recognized as indispensable by civilized peoples.

(2) The wounded, sick and shipwrecked shall be collected and cared for.

An impartial humanitarian body, such as the International Committee of the Red Cross, may offer its services to the Parties to the conflict.

The Parties to the conflict should further endeavour to bring into force, by means of special agreements, all or part of the other provisions of the present Convention.

The application of the preceding provisions shall not affect the legal status of the Parties to the conflict.

Art 4. In case of hostilities between land and naval forces of Parties to the conflict, the provisions of the present Convention shall apply only to forces on board ship.

Forces put ashore shall immediately become subject to the provisions of the Geneva Convention for

the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field of August 12, 1949.

Art 5. Neutral Powers shall apply by analogy the provisions of the present Convention to the wounded, sick and shipwrecked, and to members of the medical personnel and to chaplains of the armed forces of the Parties to the conflict received or interned in their territory, as well as to dead persons found.

Art 6. In addition to the agreements expressly provided for in Articles 10, 18, 31, 38, 39, 40, 43 and 53, the High Contracting Parties may conclude other special agreements for all matters concerning which they may deem it suitable to make separate provision. No special agreement shall adversely affect the situation of wounded, sick and shipwrecked persons, of members of the medical personnel or of chaplains, as defined by the present Convention, nor restrict the rights which it confers upon them.

Wounded, sick and shipwrecked persons, as well as medical personnel and chaplains, shall continue to have the benefit of such agreements as long as the Convention is applicable to them, except where express provisions to the contrary are contained in the aforesaid or in subsequent agreements, or where more favourable measures have been taken with regard to them by one or other of the Parties to the conflict.

Art 7. Wounded, sick and shipwrecked persons, as well as members of the medical personnel and chaplains, may in no circumstances renounce in part or in entirety the rights secured to them by the present Convention, and by the special agreements referred to in the foregoing Article, if such there be.

Art 8. The present Convention shall be applied with the cooperation and under the scrutiny of the Protecting Powers whose duty it is to safeguard the interests of the Parties to the conflict. For this purpose, the Protecting Powers may appoint, apart from their diplomatic or consular staff, delegates from amongst their own nationals or the nationals of other neutral Powers. The said delegates shall be subject to the approval of the Power with which they are to carry out their duties.

The Parties to the conflict shall facilitate to the greatest extent possible the task of the representatives or delegates of the Protecting Powers.

The representatives or delegates of the Protecting Powers shall not in any case exceed their mission under the present Convention. They shall, in particular, take account of the imperative necessities of security of the State wherein they carry out their duties. Their activities shall only be restricted as an exceptional and temporary measure when this is rendered necessary by imperative military necessities.

Art 9. The provisions of the present Convention constitute no obstacle to the humanitarian activities which the International Committee of the Red Cross or any other impartial humanitarian organization may, subject to the consent of the Parties to the conflict concerned, undertake for the protection of wounded, sick and shipwrecked persons, medical personnel and chaplains, and for their relief.

Art 10. The High Contracting Parties may at any time agree to entrust to an organization which offers all guarantees of impartiality and efficacy the duties incumbent on the Protecting Powers by virtue of the present Convention.

When wounded, sick and shipwrecked, or medical personnel and chaplains do not benefit or cease to benefit, no matter for what reason, by the activities of a Protecting Power or of an organization provided for in the first paragraph above, the Detaining Power shall request a neutral State, or such an organization, to undertake the functions performed under the present Convention by a Protecting Power designated by the Parties to a conflict.

If protection cannot be arranged accordingly, the Detaining Power shall request or shall accept, subject to the provisions of this Article, the offer of the services of a humanitarian organization, such as the International Committee of the Red Cross, to assume the humanitarian functions performed by Protecting Powers under the present Convention.

Any neutral Power, or any organization invited by the Power concerned or offering itself for these purposes, shall be required to act with a sense of responsibility towards the Party to the conflict on which persons protected by the present Convention depend, and shall be required to furnish sufficient assurances that it is in a position to undertake the appropriate functions and to discharge them impartially.

No derogation from the preceding provisions shall be made by special agreements between Powers one of which is restricted, even temporarily, in its freedom to negotiate with the other Power or its allies by reason of military events, more particularly where the whole, or a substantial part, of the territory of the said Power is occupied.

Whenever, in the present Convention, mention is made of a Protecting Power, such mention also applies to substitute organizations in the sense of the present Article.

Art 11. In cases where they deem it advisable in the interest of protected persons, particularly in cases of disagreement between the Parties to the conflict as to the application or interpretation of the provisions of the present Convention, the Protecting Powers shall lend their good offices with a view to settling the disagreement.

For this purpose, each of the Protecting Powers may, either at the invitation of one Party or on its own initiative, propose to the Parties to the conflict a meeting of their representatives, in particular of the authorities responsible for the wounded, sick and shipwrecked, medical personnel and chaplains, possibly on neutral territory suitably chosen. The Parties to the conflict shall be bound to give effect to the proposals made to them for this purpose. The Protecting Powers may, if necessary, propose for approval by the Parties to the conflict, a person belonging to a neutral Power or delegated by the International Committee of the Red Cross, who shall be invited to take part in such a meeting.

Chapter II. Wounded, Sick and Shipwrecked

Art 12. Members of the armed forces and other persons mentioned in the following Article, who are at sea and who are wounded, sick or shipwrecked, shall be respected and protected in all circumstances, it being understood that the term "shipwreck" means shipwreck from any cause and includes forced landings at sea by or from aircraft.

Such persons shall be treated humanely and cared for by the Parties to the conflict in whose power they may be, without any adverse distinction founded on sex, race, nationality, religion, political opinions, or any other similar criteria. Any attempts upon their lives, or violence to their persons, shall be strictly prohibited; in particular, they shall not be murdered or exterminated, subjected to torture or to biological experiments; they shall not wilfully be left without medical assistance and care, nor shall conditions exposing them to contagion or infection be created.

Only urgent medical reasons will authorize priority in the order of treatment to be administered.

Women shall be treated with all consideration due to their sex.

Art 13. The present Convention shall apply to the wounded, sick and shipwrecked at sea belonging to the following categories:

- (1) Members of the armed forces of a Party to the conflict, as well as members of militias or volunteer corps forming part of such armed forces.
- (2) Members of other militias and members of other volunteer corps, including those of organized resistance movements, belonging to a Party to the conflict and operating in or outside their own territory, even if this territory is occupied, provided that such militias or volunteer corps, including such organized resistance movements, fulfil the following conditions:
 - (a) that of being commanded by a person responsible for his subordinates;
 - (b) that of having a fixed distinctive sign recognizable at a distance;
 - (c) that of carrying arms openly;
 - (d) that of conducting their operations in accordance with the laws and customs of war.
- (3) Members of regular armed forces who profess allegiance to a Government or an authority not recognized by the Detaining Power.
- (4) Persons who accompany the armed forces without actually being members thereof, such as civilian members of military aircraft crews, war correspondents, supply contractors, members of labour units or of services responsible for the welfare of the armed forces, provided that they have received authorization from the armed forces which they accompany.
- (5) Members of crews, including masters, pilots and apprentices, of the merchant marine and the crews of civil aircraft of the Parties to the conflict, who do not benefit by more favourable treatment under any other provisions of international law.
- (6) Inhabitants of a non-occupied territory who, on the approach of the enemy, spontaneously take up arms to resist the invading forces, without having had time to form themselves into regular armed units, provided they carry arms openly and respect the laws and customs of war.

Art 14. All warships of a belligerent Party shall have the right to demand that the wounded, sick or shipwrecked on board military hospital ships, and hospital ships belonging to relief societies or to private individuals, as well as merchant vessels, yachts and other craft shall be surrendered, whatever their nationality, provided that the wounded and sick are in a fit state to be moved and that the warship can provide adequate facilities for necessary medical treatment.

Art 15. If wounded, sick or shipwrecked persons are taken on board a neutral warship or a neutral military aircraft, it shall be ensured, where so required by international law, that they can take no further part in operations of war.

Art 16. Subject to the provisions of Article 12, the wounded, sick and shipwrecked of a belligerent who fall into enemy hands shall be prisoners of war, and the provisions of international law concerning prisoners of war shall apply to them. The captor may decide, according to circumstances, whether it is expedient to hold them, or to convey them to a port in the captor's own country, to a neutral port or even to a port in enemy territory. In the last case, prisoners of war thus returned to their home country may not serve for the duration of the war.

Art 17. Wounded, sick or shipwrecked persons who are landed in neutral ports with the consent of the local authorities, shall, failing arrangements to the contrary between the neutral and the belligerent Powers, be so guarded by the neutral Power, where so required by international law, that the said persons cannot again take part in operations of war.

The costs of hospital accommodation and internment shall be borne by the Power on whom the wounded, sick or shipwrecked persons depend.

Art 18. After each engagement, Parties to the conflict shall, without delay, take all possible measures to search for and collect the shipwrecked, wounded and sick, to protect them against pillage and ill-treatment, to ensure their adequate care, and to search for the dead and prevent their being despoiled.

Whenever circumstances permit, the Parties to the conflict shall conclude local arrangements for the removal of the wounded and sick by sea from a besieged or encircled area and for the passage of medical and religious personnel and equipment on their way to that area.

Art 19. The Parties to the conflict shall record as soon as possible, in respect of each shipwrecked, wounded, sick or dead person of the adverse Party falling into their hands, any particulars which may assist in his identification. These records should if possible include:

- (a) designation of the Power on which he depends;
- (b) army, regimental, personal or serial number;
- (c) surname;
- (d) first name or names;
- (e) date of birth;
- (f) any other particulars shown on his identity card or disc;
- (g) date and place of capture or death;
- (h) particulars concerning wounds or illness, or cause of death.

As soon as possible the above-mentioned information shall be forwarded to the information bureau described in Article 122 of the Geneva Convention relative to the Treatment of Prisoners of War of August 12, 1949, which shall transmit this information to the Power on which these persons depend through the intermediary of the Protecting Power and of the Central Prisoners of War Agency.

Parties to the conflict shall prepare and forward to each other through the same bureau, certificates of death or duly authenticated lists of the dead. They shall likewise collect and forward through the same bureau one half of the double identity disc, or the identity disc itself if it is a single disc, last wills or other documents of importance to the next of kin, money and in general all articles of an intrinsic or sentimental value, which are found on the dead. These articles, together with unidentified articles, shall be sent in sealed packets, accompanied by statements giving all particulars necessary for the identification of the deceased owners, as well as by a complete list of the contents of the parcel.

Art 20. Parties to the conflict shall ensure that burial at sea of the dead, carried out individually as far as circumstances permit, is preceded by a careful examination, if possible by a medical examination, of the bodies, with a view to confirming death, establishing identity and enabling a report to be made. Where a double identity disc is used, one half of the disc should remain on the body.

If dead persons are landed, the provisions of the Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field of August 12, 1949 shall be applicable.

Art 21. The Parties to the conflict may appeal to the charity of commanders of neutral merchant vessels, yachts or other craft, to take on board and care for wounded, sick or shipwrecked persons, and to collect the dead.

Vessels of any kind responding to this appeal, and those having of their own accord collected wounded, sick or shipwrecked persons, shall enjoy special protection and facilities to carry out such assistance.

They may, in no case, be captured on account of any such transport; but, in the absence of any promise to the contrary, they shall remain liable to capture for any violations of neutrality they may have committed.

Chapter III. Hospital Ships

Art 22. Military hospital ships, that is to say, ships built or equipped by the Powers specially and solely with a view to assisting the wounded, sick and shipwrecked, to treating them and to transporting them, may in no circumstances be attacked or captured, but shall at all times be respected and protected, on condition that their names and descriptions have been notified to the Parties to the conflict ten days before those ships are employed.

The characteristics which must appear in the notification shall include registered gross tonnage, the length from stem to stern and the number of masts and funnels.

Art 23. Establishments ashore entitled to the protection of the Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field of August 12, 1949 shall be protected from bombardment or attack from the sea.

Art 24. Hospital ships utilized by National Red Cross Societies, by officially recognized relief societies or by private persons shall have the same protection as military hospital ships and shall be exempt from capture, if the Party to the conflict on which they depend has given them an official commission and in so far as the provisions of Article 22 concerning notification have been complied with.

These ships must be provided with certificates from the responsible authorities, stating that the vessels have been under their control while fitting out and on departure.

Art 25. Hospital ships utilized by National Red Cross Societies, officially recognized relief societies, or private persons of neutral countries shall have the same protection as military hospital ships and shall be exempt from capture, on condition that they have placed themselves under the control of one of the Parties to the conflict, with the previous consent of their own governments and with the authorization of the Party to the conflict concerned, in so far as the provisions of Article 22 concerning notification have been complied with.

Art 26. The protection mentioned in Articles 22, 24 and 25 shall apply to hospital ships of any tonnage and to their lifeboats, wherever they are operating. Nevertheless, to ensure the maximum comfort and security, the Parties to the conflict shall endeavour to utilize, for the transport of wounded, sick and shipwrecked over long distances and on the high seas, only hospital ships of over 2,000 tons gross.

Art 27. Under the same conditions as those provided for in Articles 22 and 24, small craft employed by the State or by the officially recognized lifeboat institutions for coastal rescue operations, shall also be respected and protected, so far as operational requirements permit.

The same shall apply so far as possible to fixed coastal installations used exclusively by these craft for their humanitarian missions.

Art 28. Should fighting occur on board a warship, the sick-bays shall be respected and spared as far as possible. Sick-bays and their equipment shall remain subject to the laws of warfare, but may not be diverted from their purpose so long as they are required for the wounded and sick. Nevertheless, the commander into whose power they have fallen may, after ensuring the proper care of the wounded and sick who are accommodated therein, apply them to other purposes in case of urgent military necessity.

Art 29. Any hospital ship in a port which falls into the hands of the enemy shall be authorized to leave the said port.

Art 30. The vessels described in Articles 22, 24, 25 and 27 shall afford relief and assistance to the wounded, sick and shipwrecked without distinction of nationality.

The High Contracting Parties undertake not to use these vessels for any military purpose.

Such vessels shall in no wise hamper the movements of the combatants.

During and after an engagement, they will act at their own risk.

Art 31. The Parties to the conflict shall have the right to control and search the vessels mentioned in Articles 22, 24, 25 and 27. They can refuse assistance from these vessels, order them off, make them take a certain course, control the use of their wireless and other means of communication, and even detain them for a period not exceeding seven days from the time of interception, if the gravity of the circumstances so requires.

They may put a commissioner temporarily on board whose sole task shall be to see that orders given in virtue of the provisions of the preceding paragraph are carried out.

As far as possible, the Parties to the conflict shall enter in the log of the hospital ship in a language he can understand, the orders they have given the captain of the vessel.

Parties to the conflict may, either unilaterally or by particular agreements, put on board their ships neutral observers who shall verify the strict observation of the provisions contained in the present Convention.

Art 32. Vessels described in Articles 22, 24, 25 and 27 are not classed as warships as regards their stay in a neutral port.

Art 33. Merchant vessels which have been transformed into hospital ships cannot be put to any other use throughout the duration of hostilities.

Art 34. The protection to which hospital ships and sick-bays are entitled shall not cease unless they are used to commit, outside their humanitarian duties, acts harmful to the enemy. Protection may, however, cease only after due warning has been given, naming in all appropriate cases a reasonable time limit, and after such warning has remained unheeded.

In particular, hospital ships may not possess or use a secret code for their wireless or other means of communication.

Art 35. The following conditions shall not be considered as depriving hospital ships or sick-bays of vessels of the protection due to them:

- (1) The fact that the crews of ships or sick-bays are armed for the maintenance of order, for their own defence or that of the sick and wounded.
- (2) The presence on board of apparatus exclusively intended to facilitate navigation or communication.
- (3) The discovery on board hospital ships or in sick-bays of portable arms and ammunition taken from the wounded, sick and shipwrecked and not yet handed to the proper service.
- (4) The fact that the humanitarian activities of hospital ships and sick-bays of vessels or of the crews extend to the care of wounded, sick or shipwrecked civilians.
- (5) The transport of equipment and of personnel intended exclusively for medical duties, over and above the normal requirements.

Chapter IV. Personnel

Art 36. The religious, medical and hospital personnel of hospital ships and their crews shall be respected and protected; they may not be captured during the time they are in the service of the hospital ship, whether or not there are wounded and sick on board.

Art 37. The religious, medical and hospital personnel assigned to the medical or spiritual care of the persons designated in Articles 12 and 13 shall, if they fall into the hands of the enemy, be respected and protected; they may continue to carry out their duties as long as this is necessary for the care of the wounded and sick. They shall afterwards be sent back as soon as the Commander-in-Chief, under whose authority they are, considers it practicable. They may take with them, on leaving the ship, their personal property.

If, however, it prove necessary to retain some of this personnel owing to the medical or spiritual needs

of prisoners of war, everything possible shall be done for their earliest possible landing.

Retained personnel shall be subject, on landing, to the provisions of the Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field of August 12, 1949.

Chapter V. Medical Transports

Art 38. Ships chartered for that purpose shall be authorized to transport equipment exclusively intended for the treatment of wounded and sick members of armed forces or for the prevention of disease, provided that the particulars regarding their voyage have been notified to the adverse Power and approved by the latter. The adverse Power shall preserve the right to board the carrier ships, but not to capture them or seize the equipment carried.

By agreement amongst the Parties to the conflict, neutral observers may be placed on board such ships to verify the equipment carried. For this purpose, free access to the equipment shall be given.

Art 39. Medical aircraft, that is to say, aircraft exclusively employed for the removal of the wounded, sick and shipwrecked, and for the transport of medical personnel and equipment, may not be the object of attack, but shall be respected by the Parties to the conflict, while flying at heights, at times and on routes specifically agreed upon between the Parties to the conflict concerned.

They shall be clearly marked with the distinctive emblem prescribed in Article 41, together with their national colours, on their lower, upper and lateral surfaces. They shall be provided with any other markings or means of identification which may be agreed upon between the Parties to the conflict upon the outbreak or during the course of hostilities.

Unless agreed otherwise, flights over enemy or enemy-occupied territory are prohibited.

Medical aircraft shall obey every summons to alight on land or water. In the event of having thus to alight, the aircraft with its occupants may continue its flight after examination, if any.

In the event of alighting involuntarily on land or water in enemy or enemy-occupied territory, the wounded, sick and shipwrecked, as well as the crew of the aircraft shall be prisoners of war. The medical personnel shall be treated according to Articles 36 and 37.

Art 40. Subject to the provisions of the second paragraph, medical aircraft of Parties to the conflict may fly over the territory of neutral Powers, land thereon in case of necessity, or use it as a port of call. They shall give neutral Powers prior notice of their passage over the said territory, and obey every summons to alight, on land or water. They will be immune from attack only when flying on routes, at heights and at times specifically agreed upon between the Parties to the conflict and the neutral Power concerned.

The neutral Powers may, however, place conditions or restrictions on the passage or landing of medical aircraft on their territory. Such possible conditions or restrictions shall be applied equally to all Parties to the conflict.

Unless otherwise agreed between the neutral Powers and the Parties to the conflict, the wounded, sick or shipwrecked who are disembarked with the consent of the local authorities on neutral territory by medical aircraft shall be detained by the neutral Power, where so required by international law, in such a manner that they cannot again take part in operations of war. The cost of their accommodation and internment shall be borne by the Power on which they depend.

Chapter VI. The Distinctive Emblem

Art 41. Under the direction of the competent military authority, the emblem of the red cross on a white ground shall be displayed on the flags, armbands and on all equipment employed in the Medical Service.

Nevertheless, in the case of countries which already use as emblem, in place of the red cross, the red crescent or the red lion and sun on a white ground, these emblems are also recognized by the terms of the present Convention.

Art 42. The personnel designated in Articles 36 and 37 shall wear, affixed to the left arm, a water-resistant armband bearing the distinctive emblem, issued and stamped by the military authority.

Such personnel, in addition to wearing the identity disc mentioned in Article 19, shall also carry a special identity card bearing the distinctive emblem. This card shall be water-resistant and of such size that it can be carried in the pocket. It shall be worded in the national language, shall mention at least the surname and first names, the date of birth, the rank and the service number of the bearer, and shall state in what capacity he is entitled to the protection of the present Convention. The card shall bear the photograph of the owner and also either his signature or his fingerprints or both. It shall be embossed with the stamp of the military authority.

The identity card shall be uniform throughout the same armed forces and, as far as possible, of a similar type in the armed forces of the High Contracting Parties. The Parties to the conflict may be guided by the model which is annexed, by way of example, to the present Convention. They shall inform each other, at the outbreak of hostilities, of the model they are using. Identity cards should be made out, if possible, at least in duplicate, one copy being kept by the home country.

In no circumstances may the said personnel be deprived of their insignia or identity cards nor of the right to wear the armband. In case of loss they shall be entitled to receive duplicates of the cards and to have the insignia replaced.

Art 43. The ships designated in Articles 22, 24, 25 and 27 shall be distinctively marked as follows:

(a) All exterior surfaces shall be white.

(b) One or more dark red crosses, as large as possible, shall be painted and displayed on each side of the hull and on the horizontal surfaces, so placed as to afford the greatest possible visibility from the sea and from the air.

All hospital ships shall make themselves known by hoisting their national flag and further, if they belong to a neutral state, the flag of the Party to the conflict whose direction they have accepted. A white flag with a red cross shall be flown at the mainmast as high as possible.

Lifeboats of hospital ships, coastal lifeboats and all small craft used by the Medical Service shall be painted white with dark red crosses prominently displayed and shall, in general, comply with the identification system prescribed above for hospital ships.

The above-mentioned ships and craft, which may wish to ensure by night and in times of reduced visibility the protection to which they are entitled, must, subject to the assent of the Party to the conflict under whose power they are, take the necessary measures to render their painting and distinctive emblems sufficiently apparent.

Hospital ships which, in accordance with Article 31, are provisionally detained by the enemy, must haul down the flag of the Party to the conflict in whose service they are or whose direction they have accepted.

Coastal lifeboats, if they continue to operate with the consent of the Occupying Power from a base which is occupied, may be allowed, when away from their base, to continue to fly their own national colours along with a flag carrying a red cross on a white ground, subject to prior notification to all the Parties to the conflict concerned.

All the provisions in this Article relating to the red cross shall apply equally to the other emblems mentioned in Article 41.

Parties to the conflict shall at all times endeavour to conclude mutual agreements in order to use the most modern methods available to facilitate the identification of hospital ships.

Art 44. The distinguishing signs referred to in Article 43 can only be used, whether in time of peace or war, for indicating or protecting the ships therein mentioned, except as may be provided in any other international Convention or by agreement between all the Parties to the conflict concerned.

Art 45. The High Contracting Parties shall, if their legislation is not already adequate, take the measures necessary for the prevention and repression, at all times, of any abuse of the distinctive signs provided for under Article 43.

Chapter VII. Execution of the Convention

Art 46. Each Party to the conflict, acting through its Commanders-in-Chief, shall ensure the detailed execution of the preceding Articles and provide for unforeseen cases, in conformity with the general principles of the present Convention.

Art 47. Reprisals against the wounded, sick and shipwrecked persons, the personnel, the vessels or the equipment protected by the Convention are prohibited.

Art 48. The High Contracting Parties undertake, in time of peace as in time of war, to disseminate the text of the present Convention as widely as possible in their respective countries, and, in particular, to include the study thereof in their programmes of military and, if possible, civil instruction, so that the principles thereof may become known to the entire population, in particular to the armed fighting forces, the medical personnel and the chaplains.

Art 49. The High Contracting Parties shall communicate to one another through the Swiss Federal Council and, during hostilities, through the Protecting Powers, the official translations of the present Convention, as well as the laws and regulations which they may adopt to ensure the application thereof.

Chapter VIII. Repression of Abuses and Infractions

Art 50. The High Contracting Parties undertake to enact any legislation necessary to provide effective penal sanctions for persons committing, or ordering to be committed, any of the grave breaches of the present Convention defined in the following Article.

Each High Contracting Party shall be under the obligation to search for persons alleged to have committed, or to have ordered to be committed, such grave breaches, and shall bring such persons, regardless of their nationality, before its own courts. It may also, if it prefers, and in accordance with the provisions of its own legislation, hand such persons over for trial to another High Contracting Party concerned, provided such High Contracting Party has made out a prima facie case.

Each High Contracting Party shall take measures necessary for the suppression of all acts contrary to the provisions of the present Convention other than the grave breaches defined in the following Article.

In all circumstances, the accused persons shall benefit by safeguards of proper trial and defence, which shall not be less favourable than those provided by Article 105 and those following of the Geneva Convention relative to the Treatment of Prisoners of War of August 12, 1949.

Art 51. Grave breaches to which the preceding Article relates shall be those involving any of the following acts, if committed against persons or property protected by the Convention: wilful killing, torture or inhuman treatment, including biological experiments, wilfully causing great suffering or serious injury to body or health, and extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly.

Art 52. No High Contracting Party shall be allowed to absolve itself or any other High Contracting Party of any liability incurred by itself or by another High Contracting Party in respect of breaches referred to in the preceding Article.

Art 53. At the request of a Party to the conflict, an enquiry shall be instituted, in a manner to be decided between the interested Parties, concerning any alleged violation of the Convention.

If agreement has not been reached concerning the procedure for the enquiry, the Parties should agree on the choice of an umpire, who will decide upon the procedure to be followed.

Once the violation has been established, the Parties to the conflict shall put an end to it and shall repress it with the least possible delay.

Final Provisions

Art 54. The present Convention is established in English and in French. Both texts are equally authentic.

The Swiss Federal Council shall arrange for official translations of the Convention to be made in the Russian and Spanish languages.

Art 55. The present Convention, which bears the date of this day, is open to signature until February

12, 1950, in the name of the Powers represented at the Conference which opened at Geneva on April 21, 1949; furthermore, by Powers not represented at that Conference, but which are parties to the Xth Hague Convention of October 13, 1907 for the adaptation to Maritime Warfare of the Principles of the Geneva Convention of 1906, or to the Geneva Conventions of 1864, 1906 or 1929 for the Relief of the Wounded and Sick in Armies in the Field.

Art 56. The present Convention shall be ratified as soon as possible and the ratifications shall be deposited at Berne.

A record shall be drawn up of the deposit of each instrument of ratification and certified copies of this record shall be transmitted by the Swiss Federal Council to all the Powers in whose name the Convention has been signed, or whose accession has been notified.

Art 57. The present Convention shall come into force six months after not less than two instruments of ratification have been deposited.

Thereafter, it shall come into force for each High Contracting Party six months after the deposit of the instrument of ratification.

Art 58. The present Convention replaces the Xth Hague Convention of October 18, 1907, for the adaptation to Maritime Warfare of the principles of the Geneva Convention of 1906, in relations between the High Contracting Parties.

Art 59. From the date of its coming into force, it shall be open to any Power in whose name the present Convention has not been signed, to accede to this Convention.

Art 60. Accessions shall be notified in writing to the Swiss Federal Council, and shall take effect six months after the date on which they are received.

The Swiss Federal Council shall communicate the accessions to all the Powers in whose name the Convention has been signed, or whose accession has been notified.

Art 61. The situations provided for in Articles 2 and 3 shall give immediate effect to ratifications deposited and accessions notified by the Parties to the conflict before or after the beginning of hostilities or occupation. The Swiss Federal Council shall communicate by the quickest method any ratifications or accessions received from Parties to the conflict.

Art 62. Each of the High Contracting Parties shall be at liberty to denounce the present Convention.

The denunciation shall be notified in writing to the Swiss Federal Council, which shall transmit it to the Governments of all the High Contracting Parties.

The denunciation shall take effect one year after the notification thereof has been made to the Swiss Federal Council. However, a denunciation of which notification has been made at a time when the denouncing Power is involved in a conflict shall not take effect until peace has been concluded, and until after operations connected with the release and repatriation of the persons protected by the present Convention have been terminated.

The denunciation shall have effect only in respect of the denouncing Power. It shall in no way impair the obligations which the Parties to the conflict shall remain bound to fulfil by virtue of the principles of the law of nations, as they result from the usages established among civilized peoples, from the laws of humanity and the dictates of the public conscience.

Art 63. The Swiss Federal Council shall register the present Convention with the Secretariat of the United Nations. The Swiss Federal Council shall also inform the Secretariat of the United Nations of all ratifications, accessions and denunciations received by it with respect to the present Convention.



IN WITNESS WHEREOF the undersigned, having deposited their respective full powers, have signed the present Convention.

DONE at Geneva this twelfth day of August 1949, in the English and French languages. The original shall be deposited in the Archives of the Swiss Confederation. The Swiss Federal Council shall transmit certified copies thereof to each of the signatory and acceding States.

Annex
 Identity Card for Members of Medical and Religious Personnel attached to the Armed Forces at Sea

Front

(Space reserved for the date of the country and military authority issuing this card)

IDENTITY CARD

for members of medical and religious personnel attached to the armed forces at sea

Surname.....

First names.....

Date of Birth.....

Rank.....

Army Number.....

The bearer of this card is protected by the Geneva Convention for the Amelioration of the Condition of the Wounded, Sick and Shipwrecked Members of Armed Forces at Sea of August 12, 1949, in his capacity as

Date of issue..... Number of Card.....

Reverse Side

Signature of bearer or fingerprints or both

Photo of bearer

Embossed stamp of military authority issuing card

Height	Eyes	Hair
.....

Other distinguishing marks

.....

.....

.....

.....

INTERNATIONAL HUMANITARIAN LAW

International Committee of the Red Cross

APPENDICE

V

Document printed from the ICRC web site on the 08.01.2008

Convention (III) relative to the Treatment of Prisoners of War. Geneva, 12 August 1949.

Introduction

General title	Diplomatic Conference of Geneva of 1949.
Forum of adoption	Diplomatic Conference of Geneva of 1949
In force	yes
Entry into force	21.10.1950

The present Convention replaced the Prisoners of War Convention of 1929. It contains 143 Articles whereas the 1929 Convention had only 97. It became necessary to revise the 1929 Convention on a number of points owing to the changes that had occurred in the conduct of warfare and the consequences thereof, as well as in the living condition of peoples. Experience had shown that the daily life of prisoners depended specifically on the interpretation given to the general regulations. Consequently, certain regulations were given a more explicit form which was lacking in the preceding provisions. Since the text of the Convention is to be posted in all prisoner of war camps (see Article 41) it has to be comprehensible not only to the authorities but also to the ordinary reader at any time. 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, in particular with regard to the labour 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 (Article 118)

Meetings of forum	21.04.1949 - 12.08.1949, Geneva
Date of adoption	12.08.1949
Depositary	Switzerland
Number of articles	143 + 5 annexes
Authentic text	English; French

I N T E R N A T I O N A L H U M A N I T A R I A N L A W

International Committee of the Red Cross

Document printed from the ICRC web site on the 08.01.2008

Convention (III) relative to the Treatment of Prisoners of War. Geneva, 12 August 1949.

Full text

Preamble

The undersigned Plenipotentiaries of the Governments represented at the Diplomatic Conference held at Geneva from April 21 to August 12, 1949, for the purpose of revising the Convention concluded at Geneva on July 27, 1929, relative to the Treatment of Prisoners of War, have agreed as follows:

Part I. General Provisions

Art 1. The High Contracting Parties undertake to respect and to ensure respect for the present Convention in all circumstances.

Art 2. In addition to the provisions which shall be implemented in peace time, the present Convention shall apply to all cases of declared war or of any other armed conflict which may arise between two or more of the High Contracting Parties, even if the state of war is not recognized by one of them.

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

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

Art 3. In the case of armed conflict not of an international character occurring in the territory of one of the High Contracting Parties, each Party to the conflict shall be bound to apply, as a minimum, the following provisions:

(1) Persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed hors de combat by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely, without any adverse distinction founded on race, colour, religion or faith, sex, birth or wealth, or any other similar criteria. To this end the following acts are and shall remain prohibited at any time and in any place whatsoever with respect to the above-mentioned persons:

(a) violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture;

(b) taking of hostages;

(c) outrages upon personal dignity, in particular, humiliating and degrading treatment;

(d) 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.

(2) The wounded and sick shall be collected and cared for.

An impartial humanitarian body, such as the International Committee of the Red Cross, may offer its services to the Parties to the conflict.

The Parties to the conflict should further endeavour to bring into force, by means of special agreements, all or part of the other provisions of the present Convention.

The application of the preceding provisions shall not affect the legal status of the Parties to the conflict.

Art 4. A. Prisoners of war, in the sense of the present Convention, are persons belonging to one of the following categories, who have fallen into the power of the enemy:

(1) Members of the armed forces of a Party to the conflict, as well as members of militias or volunteer corps forming part of such armed forces.

(2) Members of other militias and members of other volunteer corps, including those of organized resistance movements, belonging to a Party to the conflict and operating in or outside their own territory, even if this territory is occupied, provided that such militias or volunteer corps, including such organized resistance movements, fulfil the following conditions: [

(a) that of being commanded by a person responsible for his subordinates;

(b) that of having a fixed distinctive sign recognizable at a distance;

- (c) that of carrying arms openly;
- (d) that of conducting their operations in accordance with the laws and customs of war.

(3) Members of regular armed forces who profess allegiance to a government or an authority not recognized by the Detaining Power.

(4) Persons who accompany the armed forces without actually being members thereof, such as civilian members of military aircraft crews, war correspondents, supply contractors, members of labour units or of services responsible for the welfare of the armed forces, provided that they have received authorization, from the armed forces which they accompany, who shall provide them for that purpose with an identity card similar to the annexed model.

(5) Members of crews, including masters, pilots and apprentices, of the merchant marine and the crews of civil aircraft of the Parties to the conflict, who do not benefit by more favourable treatment under any other provisions of international law.

(6) Inhabitants of a non-occupied territory, who on the approach of the enemy spontaneously take up arms to resist the invading forces, without having had time to form themselves into regular armed units, provided they carry arms openly and respect the laws and customs of war.

B. The following shall likewise be treated as prisoners of war under the present Convention:

(1) Persons belonging, or having belonged, to the armed forces of the occupied country, if the occupying Power considers it necessary by reason of such allegiance to intern them, even though it has originally liberated them while hostilities were going on outside the territory it occupies, in particular where such persons have made an unsuccessful attempt to rejoin the armed forces to which they belong and which are engaged in combat, or where they fail to comply with a summons made to them with a view to internment.

(2) The persons belonging to one of the categories enumerated in the present Article, who have been received by neutral or non-belligerent Powers on their territory and whom these Powers are required to intern under international law, without prejudice to any more favourable treatment which these Powers may choose to give and with the exception of Articles 8, 10, 15, 30, fifth paragraph, 58-67, 92, 126 and, where diplomatic relations exist between the Parties to the conflict and the neutral or non-belligerent Power concerned, those Articles concerning the Protecting Power. Where such diplomatic relations exist, the Parties to a conflict on whom these persons depend shall be allowed to perform towards them the functions of a Protecting Power as provided in the present Convention, without prejudice to the functions which these Parties normally exercise in conformity with diplomatic and consular usage and treaties.

C. This Article shall in no way affect the status of medical personnel and chaplains as provided for in Article 33 of the present Convention.

Art 5. The present Convention shall apply to the persons referred to in Article 4 from the time they fall into the power of the enemy and until their final release and repatriation.

Should any doubt arise as to whether persons, having committed a belligerent act and having fallen into the hands of the enemy, belong to any of the categories enumerated in Article 4, such persons shall enjoy the protection of the present Convention until such time as their status has been determined by a competent tribunal.

Art 6. In addition to the agreements expressly provided for in Articles 10, 23, 28, 33, 60, 65, 66, 67, 72, 73, 75, 109, 110, 118, 119, 122 and 132, the High Contracting Parties may conclude other special agreements for all matters concerning which they may deem it suitable to make separate provision. No special agreement shall adversely affect the situation of prisoners of war, as defined by the present Convention, nor restrict the rights which it confers upon them.

Prisoners of war shall continue to have the benefit of such agreements as long as the Convention is applicable to them, except where express provisions to the contrary are contained in the aforesaid or in subsequent agreements, or where more favourable measures have been taken with regard to them by one or other of the Parties to the conflict.

Art 7. Prisoners of war may in no circumstances renounce in part or in entirety the rights secured to them by the present Convention, and by the special agreements referred to in the foregoing Article, if such there be.

Art 8. The present Convention shall be applied with the cooperation and under the scrutiny of the Protecting Powers whose duty it is to safeguard the interests of the Parties to the conflict. For this purpose, the Protecting Powers may appoint, apart from their diplomatic or consular staff, delegates from amongst their own nationals or the nationals of other neutral Powers. The said delegates shall be subject to the approval of

the Power with which they are to carry out their duties.

The Parties to the conflict shall facilitate to the greatest extent possible the task of the representatives or delegates of the Protecting Powers.

The representatives or delegates of the Protecting Powers shall not in any case exceed their mission under the present Convention. They shall, in particular, take account of the imperative necessities of security of the State wherein they carry out their duties.

Art 9. The provisions of the present Convention constitute no obstacle to the humanitarian activities which the International Committee of the Red Cross or any other impartial humanitarian organization may, subject to the consent of the Parties to the conflict concerned, undertake for the protection of prisoners of war and for their relief.

Art 10. The High Contracting Parties may at any time agree to entrust to an organization which offers all guarantees of impartiality and efficacy the duties incumbent on the Protecting Powers by virtue of the present Convention.

When prisoners of war do not benefit or cease to benefit, no matter for what reason, by the activities of a Protecting Power or of an organization provided for in the first paragraph above, the Detaining Power shall request a neutral State, or such an organization, to undertake the functions performed under the present Convention by a Protecting Power designated by the Parties to a conflict.

If protection cannot be arranged accordingly, the Detaining Power shall request or shall accept, subject to the provisions of this Article, the offer of the services of a humanitarian organization, such as the International Committee of the Red Cross to assume the humanitarian functions performed by Protecting Powers under the present Convention.

Any neutral Power or any organization invited by the Power concerned or offering itself for these purposes, shall be required to act with a sense of responsibility towards the Party to the conflict on which persons protected by the present Convention depend, and shall be required to furnish sufficient assurances that it is in a position to undertake the appropriate functions and to discharge them impartially.

No derogation from the preceding provisions shall be made by special agreements between Powers one of which is restricted, even temporarily, in its freedom to negotiate with the other Power or its allies by reason of military events, more particularly where the whole, or a substantial part, of the territory of the said Power is occupied.

Whenever in the present Convention mention is made of a Protecting Power, such mention applies to substitute organizations in the sense of the present Article.

Art 11. In cases where they deem it advisable in the interest of protected persons, particularly in cases of disagreement between the Parties to the conflict as to the application or interpretation of the provisions of the present Convention, the Protecting Powers shall lend their good offices with a view to settling the disagreement.

For this purpose, each of the Protecting Powers may, either at the invitation of one Party or on its own initiative, propose to the Parties to the conflict a meeting of their representatives, and in particular of the authorities responsible for prisoners of war, possibly on neutral territory suitably chosen. The Parties to the conflict shall be bound to give effect to the proposals made to them for this purpose. The Protecting Powers may, if necessary, propose for approval by the Parties to the conflict a person belonging to a neutral Power, or delegated by the International Committee of the Red Cross, who shall be invited to take part in such a meeting.

Part II. General Protection of Prisoners of War

Art 12. Prisoners of war are in the hands of the enemy Power, but not of the individuals or military units who have captured them. Irrespective of the individual responsibilities that may exist, the Detaining Power is responsible for the treatment given them.

Prisoners of war may only be transferred by the Detaining Power to a Power which is a party to the Convention and after the Detaining Power has satisfied itself of the willingness and ability of such transferee Power to apply the Convention. When prisoners of war are transferred under such circumstances, responsibility for the application of the Convention rests on the Power accepting them while they are in its custody.

Nevertheless, if that Power fails to carry out the provisions of the Convention in any important respect, the Power by whom the prisoners of war were transferred shall, upon being notified by the Protecting Power, take effective measures to correct the situation or shall request the return of the prisoners of war. Such requests must be complied with.

Art 13. Prisoners of war must at all times be humanely treated. Any unlawful act or omission by the Detaining Power causing death or seriously endangering the health of a prisoner of war in its custody is prohibited, and will be regarded as a serious breach of the present Convention. In particular, no prisoner of war may be subjected to physical mutilation or to medical or scientific experiments of any kind which are not justified by the medical, dental or hospital treatment of the prisoner concerned and carried out in his interest.

Likewise, prisoners of war must at all times be protected, particularly against acts of violence or intimidation and against insults and public curiosity.

Measures of reprisal against prisoners of war are prohibited.

Art 14. Prisoners of war are entitled in all circumstances to respect for their persons and their honour.

Women shall be treated with all the regard due to their sex and shall in all cases benefit by treatment as favourable as that granted to men.

Prisoners of war shall retain the full civil capacity which they enjoyed at the time of their capture. The Detaining Power may not restrict the exercise, either within or without its own territory, of the rights such capacity confers except in so far as the captivity requires.

Art 15. The Power detaining prisoners of war shall be bound to provide free of charge for their maintenance and for the medical attention required by their state of health.

Art 16. Taking into consideration the provisions of the present Convention relating to rank and sex, and subject to any privileged treatment which may be accorded to them by reason of their state of health, age or professional qualifications, all prisoners of war shall be treated alike by the Detaining Power, without any adverse distinction based on race, nationality, religious belief or political opinions, or any other distinction founded on similar criteria.

Part III. Captivity

Section 1. Beginning of Captivity

Art 17. Every prisoner of war, when questioned on the subject, is bound to give only his surname, first names and rank, date of birth, and army, regimental, personal or serial number, or failing this, equivalent information.

If he wilfully infringes this rule, he may render himself liable to a restriction of the privileges accorded to his rank or status.

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.

No physical or mental torture, nor any other form of coercion, may be inflicted on prisoners of war to secure from them information of any kind whatever. Prisoners of war who refuse to answer may not be threatened, insulted, or exposed to unpleasant or disadvantageous treatment of any kind.

Prisoners of war who, owing to their physical or mental condition, are unable to state their identity, shall be handed over to the medical service. The identity of such prisoners shall be established by all possible means, subject to the provisions of the preceding paragraph.

The questioning of prisoners of war shall be carried out in a language which they understand.

Art 18. All effects and articles of personal use, except arms, horses, military equipment and military documents, shall remain in the possession of prisoners of war, likewise their metal helmets and gas masks and like articles issued for personal protection. Effects and articles used for their clothing or feeding shall likewise remain in their possession, even if such effects and articles belong to their regulation military

equipment.

At no time should prisoners of war be without identity documents. The Detaining Power shall supply such documents to prisoners of war who possess none.

Badges of rank and nationality, decorations and articles having above all a personal or sentimental value may not be taken from prisoners of war.

Sums of money carried by prisoners of war may not be taken away from them except by order of an officer, and after the amount and particulars of the owner have been recorded in a special register and an itemized receipt has been given, legibly inscribed with the name, rank and unit of the person issuing the said receipt. Sums in the currency of the Detaining Power, or which are changed into such currency at the prisoner's request, shall be placed to the credit of the prisoner's account as provided in Article 64.

The Detaining Power may withdraw articles of value from prisoners of war only for reasons of security; when such articles are withdrawn, the procedure laid down for sums of money impounded shall apply.

Such objects, likewise sums taken away in any currency other than that of the Detaining Power and the conversion of which has not been asked for by the owners, shall be kept in the custody of the Detaining Power and shall be returned in their initial shape to prisoners of war at the end of their captivity.

Art 19. Prisoners of war shall be evacuated, as soon as possible after their capture, to camps situated in an area far enough from the combat zone for them to be out of danger.

Only those prisoners of war who, owing to wounds or sickness, would run greater risks by being evacuated than by remaining where they are, may be temporarily kept back in a danger zone.

Prisoners of war shall not be unnecessarily exposed to danger while awaiting evacuation from a fighting zone.

Art 20. The evacuation of prisoners of war shall always be effected humanely and in conditions similar to those for the forces of the Detaining Power in their changes of station.

The Detaining Power shall supply prisoners of war who are being evacuated with sufficient food and potable water, and with the necessary clothing and medical attention. The Detaining Power shall take all suitable precautions to ensure their safety during evacuation, and shall establish as soon as possible a list of the prisoners of war who are evacuated.

If prisoners of war must, during evacuation, pass through transit camps, their stay in such camps shall be as brief as possible.

Section II. Internment of Prisoners of War

Chapter I. General Observations

Art 21. The Detaining Power may subject prisoners of war to internment. It may impose on them the obligation of not leaving, beyond certain limits, the camp where they are interned, or if the said camp is fenced in, of not going outside its perimeter. Subject to the provisions of the present Convention relative to penal and disciplinary sanctions, prisoners of war may not be held in close confinement except where necessary to safeguard their health and then only during the continuation of the circumstances which make such confinement necessary.

Prisoners of war may be partially or wholly released on parole or promise, in so far as is allowed by the laws of the Power on which they depend. Such measures shall be taken particularly in cases where this may contribute to the improvement of their state of health. No prisoner of war shall be compelled to accept liberty on parole or promise.

Upon the outbreak of hostilities, each Party to the conflict shall notify the adverse Party of the laws and regulations allowing or forbidding its own nationals to accept liberty on parole or promise. Prisoners of war who are paroled or who have given their promise in conformity with the laws and regulations so notified, are bound on their personal honour scrupulously to fulfil, both towards the Power on which they depend and towards the Power which has captured them, the engagements of their paroles or promises. In such cases, the Power on which they depend is bound neither to require nor to accept from them any service incompatible with the parole or promise given.

Art 22. Prisoners of war may be interned only in premises located on land and affording every guarantee of

hygiene and healthfulness. Except in particular cases which are justified by the interest of the prisoners themselves, they shall not be interned in penitentiaries.

Prisoners of war interned in unhealthy areas, or where the climate is injurious for them, shall be removed as soon as possible to a more favourable climate.

The Detaining Power shall assemble prisoners of war in camps or camp compounds according to their nationality, language and customs, provided that such prisoners shall not be separated from prisoners of war belonging to the armed forces with which they were serving at the time of their capture, except with their consent.

Art 23. No prisoner of war may at any time be sent to, or detained in areas where he may be exposed to the fire of the combat zone, nor may his presence be used to render certain points or areas immune from military operations.

Prisoners of war shall have shelters against air bombardment and other hazards of war, to the same extent as the local civilian population. With the exception of those engaged in the protection of their quarters against the aforesaid hazards, they may enter such shelters as soon as possible after the giving of the alarm. Any other protective measure taken in favour of the population shall also apply to them.

Detaining Powers shall give the Powers concerned, through the intermediary of the Protecting Powers, all useful information regarding the geographical location of prisoner of war camps.

Whenever military considerations permit, prisoner of war camps shall be indicated in the day-time by the letters PW or PG, placed so as to be clearly visible from the air. The Powers concerned may, however, agree upon any other system of marking. Only prisoner of war camps shall be marked as such.

Art 24. Transit or screening camps of a permanent kind shall be fitted out under conditions similar to those described in the present Section, and the prisoners therein shall have the same treatment as in other camps.

Chapter II. Quarters, Food and Clothing of Prisoners of War

Art 25. Prisoners of war shall be quartered under conditions as favourable as those for the forces of the Detaining Power who are billeted in the same area. The said conditions shall make allowance for the habits and customs of the prisoners and shall in no case be prejudicial to their health.

The foregoing provisions shall apply in particular to the dormitories of prisoners of war as regards both total surface and minimum cubic space, and the general installations, bedding and blankets.

The premises provided for the use of prisoners of war individually or collectively, shall be entirely protected from dampness and adequately heated and lighted, in particular between dusk and lights out. All precautions must be taken against the danger of fire.

In any camps in which women prisoners of war, as well as men, are accommodated, separate dormitories shall be provided for them.

Art 26. The basic daily food rations shall be sufficient in quantity, quality and variety to keep prisoners of war in good health and to prevent loss of weight or the development of nutritional deficiencies. Account shall also be taken of the habitual diet of the prisoners.

The Detaining Power shall supply prisoners of war who work with such additional rations as are necessary for the labour on which they are employed.

Sufficient drinking water shall be supplied to prisoners of war. The use of tobacco shall be permitted.

Prisoners of war shall, as far as possible, be associated with the preparation of their meals; they may be employed for that purpose in the kitchens. Furthermore, they shall be given the means of preparing, themselves, the additional food in their possession.

Adequate premises shall be provided for messing.

Collective disciplinary measures affecting food are prohibited.

Art 27. Clothing, underwear and footwear shall be supplied to prisoners of war in sufficient quantities by the Detaining Power, which shall make allowance for the climate of the region where the prisoners are detained.

Uniforms of enemy armed forces captured by the Detaining Power should, if suitable for the climate, be made available to clothe prisoners of war.

The regular replacement and repair of the above articles shall be assured by the Detaining Power. In addition, prisoners of war who work shall receive appropriate clothing, wherever the nature of the work demands.

Art 28. Canteens shall be installed in all camps, where prisoners of war may procure foodstuffs, soap and tobacco and ordinary articles in daily use. The tariff shall never be in excess of local market prices.

The profits made by camp canteens shall be used for the benefit of the prisoners; a special fund shall be created for this purpose. The prisoners' representative shall have the right to collaborate in the management of the canteen and of this fund.

When a camp is closed down, the credit balance of the special fund shall be handed to an international welfare organization, to be employed for the benefit of prisoners of war of the same nationality as those who have contributed to the fund. In case of a general repatriation, such profits shall be kept by the Detaining Power, subject to any agreement to the contrary between the Powers concerned.

Chapter III. Hygiene and Medical Attention

Art 29. The Detaining Power shall be bound to take all sanitary measures necessary to ensure the cleanliness and healthfulness of camps and to prevent epidemics.

Prisoners of war shall have for their use, day and night, conveniences which conform to the rules of hygiene and are maintained in a constant state of cleanliness. In any camps in which women prisoners of war are accommodated, separate conveniences shall be provided for them.

Also, apart from the baths and showers with which the camps shall be furnished prisoners of war shall be provided with sufficient water and soap for their personal toilet and for washing their personal laundry; the necessary installations, facilities and time shall be granted them for that purpose.

Art 30. Every camp shall have an adequate infirmary where prisoners of war may have the attention they require, as well as appropriate diet. Isolation wards shall, if necessary, be set aside for cases of contagious or mental disease.

Prisoners of war suffering from serious disease, or whose condition necessitates special treatment, a surgical operation or hospital care, must be admitted to any military or civilian medical unit where such treatment can be given, even if their repatriation is contemplated in the near future. Special facilities shall be afforded for the care to be given to the disabled, in particular to the blind, and for their rehabilitation, pending repatriation.

Prisoners of war shall have the attention, preferably, of medical personnel of the Power on which they depend and, if possible, of their nationality.

Prisoners of war may not be prevented from presenting themselves to the medical authorities for examination. The detaining authorities shall, upon request, issue to every prisoner who has undergone treatment, an official certificate indicating the nature of his illness or injury, and the duration and kind of treatment received. A duplicate of this certificate shall be forwarded to the Central Prisoners of War Agency.

The costs of treatment, including those of any apparatus necessary for the maintenance of prisoners of war in good health, particularly dentures and other artificial appliances, and spectacles, shall be borne by the Detaining Power.

Art 31. Medical inspections of prisoners of war shall be held at least once a month. They shall include the checking and the recording of the weight of each prisoner of war.

Their purpose shall be, in particular, to supervise the general state of health, nutrition and cleanliness of prisoners and to detect contagious diseases, especially tuberculosis, malaria and venereal disease. For this purpose the most efficient methods available shall be employed, e.g. periodic mass miniature radiography for the early detection of tuberculosis.

Art 32. Prisoners of war who, though not attached to the medical service of their armed forces, are physicians, surgeons, dentists, nurses or medical orderlies, may be required by the Detaining Power to exercise their medical functions in the interests of prisoners of war dependent on the same Power. In that case they shall continue to be prisoners of war, but shall receive the same treatment as corresponding medical personnel retained by the Detaining Power. They shall be exempted from any other work under

Article 49.

Chapter IV. Medical Personnel and Chaplains Retained to Assist Prisoners of War

Art 33. Members of the medical personnel and chaplains while retained by the Detaining Power with a view to assisting prisoners of war, shall not be considered as prisoners of war. They shall, however, receive as a minimum the benefits and protection of the present Convention, and shall also be granted all facilities necessary to provide for the medical care of, and religious ministrations to prisoners of war.

They shall continue to exercise their medical and spiritual functions for the benefit of prisoners of war, preferably those belonging to the armed forces upon which they depend, within the scope of the military laws and regulations of the Detaining Power and under the control of its competent services, in accordance with their professional etiquette. They shall also benefit by the following facilities in the exercise of their medical or spiritual functions:

(a) They shall be authorized to visit periodically prisoners of war situated in working detachments or in hospitals outside the camp. For this purpose, the Detaining Power shall place at their disposal the necessary means of transport.

(b) The senior medical officer in each camp shall be responsible to the camp military authorities for everything connected with the activities of retained medical personnel. For this purpose, Parties to the conflict shall agree at the outbreak of hostilities on the subject of the corresponding ranks of the medical personnel, including that of societies mentioned in Article 26 of the Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field of August 12, 1949. This senior medical officer, as well as chaplains, shall have the right to deal with the competent authorities of the camp on all questions relating to their duties. Such authorities shall afford them all necessary facilities for correspondence relating to these questions.

(c) Although they shall be subject to the internal discipline of the camp in which they are retained, such personnel may not be compelled to carry out any work other than that concerned with their medical or religious duties.

During hostilities, the Parties to the conflict shall agree concerning the possible relief of retained personnel and shall settle the procedure to be followed.

None of the preceding provisions shall relieve the Detaining Power of its obligations with regard to prisoners of war from the medical or spiritual point of view.

Chapter V. Religious, Intellectual and Physical Activities

Art 34. Prisoners of war shall enjoy complete latitude in the exercise of their religious duties, including attendance at the service of their faith, on condition that they comply with the disciplinary routine prescribed by the military authorities.

Adequate premises shall be provided where religious services may be held.

Art 35. Chaplains who fall into the hands of the enemy Power and who remain or are retained with a view to assisting prisoners of war, shall be allowed to minister to them and to exercise freely their ministry amongst prisoners of war of the same religion, in accordance with their religious conscience. They shall be allocated among the various camps and labour detachments containing prisoners of war belonging to the same forces, speaking the same language or practising the same religion. They shall enjoy the necessary facilities, including the means of transport provided for in Article 33, for visiting the prisoners of war outside their camp. They shall be free to correspond, subject to censorship, on matters concerning their religious duties with the ecclesiastical authorities in the country of detention and with international religious organizations. Letters and cards which they may send for this purpose shall be in addition to the quota provided for in Article 71.

Art 36. Prisoners of war who are ministers of religion, without having officiated as chaplains to their own forces, shall be at liberty, whatever their denomination, to minister freely to the members of their community. For this purpose, they shall receive the same treatment as the chaplains retained by the Detaining Power. They shall not be obliged to do any other work.

Art 37. When prisoners of war have not the assistance of a retained chaplain or of a prisoner of war minister of their faith, a minister belonging to the prisoners' or a similar denomination, or in his absence a qualified layman, if such a course is feasible from a confessional point of view, shall be appointed, at the request of the prisoners concerned, to fill this office. This appointment, subject to the approval of the Detaining Power, shall take place with the agreement of the community of prisoners concerned and, wherever necessary, with the

approval of the local religious authorities of the same faith. The person thus appointed shall comply with all regulations established by the Detaining Power in the interests of discipline and military security.

Art 38. While respecting the individual preferences of every prisoner, the Detaining Power shall encourage the practice of intellectual, educational, and recreational pursuits, sports and games amongst prisoners, and shall take the measures necessary to ensure the exercise thereof by providing them with adequate premises and necessary equipment.

Prisoners shall have opportunities for taking physical exercise, including sports and games, and for being out of doors. Sufficient open spaces shall be provided for this purpose in all camps.

Chapter VI. Discipline

Art 39. Every prisoner of war camp shall be put under the immediate authority of a responsible commissioned officer belonging to the regular armed forces of the Detaining Power. Such officer shall have in his possession a copy of the present Convention; he shall ensure that its provisions are known to the camp staff and the guard and shall be responsible, under the direction of his government, for its application.

Prisoners of war, with the exception of officers, must salute and show to all officers of the Detaining Power the external marks of respect provided for by the regulations applying in their own forces.

Officer prisoners of war are bound to salute only officers of a higher rank of the Detaining Power; they must, however, salute the camp commander regardless of his rank.

Art 40. The wearing of badges of rank and nationality, as well as of decorations, shall be permitted.

Art 41. In every camp the text of the present Convention and its Annexes and the contents of any special agreement provided for in Article 6, shall be posted, in the prisoners' own language, in places where all may read them. Copies shall be supplied, on request, to the prisoners who cannot have access to the copy which has been posted.

Regulations, orders, notices and publications of every kind relating to the conduct of prisoners of war shall be issued to them in a language which they understand. Such regulations, orders and publications shall be posted in the manner described above and copies shall be handed to the prisoners' representative. Every order and command addressed to prisoners of war individually must likewise be given in a language which they understand.

Art 42. The use of weapons against prisoners of war, especially against those who are escaping or attempting to escape, shall constitute an extreme measure, which shall always be preceded by warnings appropriate to the circumstances.

Chapter VII. Rank of Prisoners of War

Art 43. Upon the outbreak of hostilities, the Parties to the conflict shall communicate to one another the titles and ranks of all the persons mentioned in Article 4 of the present Convention, in order to ensure equality of treatment between prisoners of equivalent rank. Titles and ranks which are subsequently created shall form the subject of similar communications.

The Detaining Power shall recognize promotions in rank which have been accorded to prisoners of war and which have been duly notified by the Power on which these prisoners depend.

Art 44. Officers and prisoners of equivalent status shall be treated with the regard due to their rank and age.

In order to ensure service in officers' camps, other ranks of the same armed forces who, as far as possible, speak the same language, shall be assigned in sufficient numbers, account being taken of the rank of officers and prisoners of equivalent status. Such orderlies shall not be required to perform any other work.

Supervision of the mess by the officers themselves shall be facilitated in every way.

Art 45. Prisoners of war other than officers and prisoners of equivalent status shall be treated with the regard due to their rank and age.

Supervision of the mess by the prisoners themselves shall be facilitated in every way.

Chapter VIII. Transfer of Prisoners of War after their Arrival in Camp

Art 46. The Detaining Power, when deciding upon the transfer of prisoners of war, shall take into account the interests of the prisoners themselves, more especially so as not to increase the difficulty of their repatriation.

The transfer of prisoners of war shall always be effected humanely and in conditions not less favourable than those under which the forces of the Detaining Power are transferred. Account shall always be taken of the climatic conditions to which the prisoners of war are accustomed and the conditions of transfer shall in no case be prejudicial to their health.

The Detaining Power shall supply prisoners of war during transfer with sufficient food and drinking water to keep them in good health, likewise with the necessary clothing, shelter and medical attention. The Detaining Power shall take adequate precautions especially in case of transport by sea or by air, to ensure their safety during transfer, and shall draw up a complete list of all transferred prisoners before their departure.

Art 47. Sick or wounded prisoners of war shall not be transferred as long as their recovery may be endangered by the journey, unless their safety imperatively demands it.

If the combat zone draws closer to a camp, the prisoners of war in the said camp shall not be transferred unless their transfer can be carried out in adequate conditions of safety, or unless they are exposed to greater risks by remaining on the spot than by being transferred.

Art 48. In the event of transfer, prisoners of war shall be officially advised of their departure and of their new postal address. Such notifications shall be given in time for them to pack their luggage and inform their next of kin.

They shall be allowed to take with them their personal effects, and the correspondence and parcels which have arrived for them. The weight of such baggage may be limited, if the conditions of transfer so require, to what each prisoner can reasonably carry, which shall in no case be more than twenty-five kilograms per head.

Mail and parcels addressed to their former camp shall be forwarded to them without delay. The camp commander shall take, in agreement with the prisoners' representative, any measures needed to ensure the transport of the prisoners' community property and of the luggage they are unable to take with them in consequence of restrictions imposed by virtue of the second paragraph of this Article.

The costs of transfers shall be borne by the Detaining Power.

Section III. Labour of Prisoners of War

Art 49. The Detaining Power may utilize the labour of prisoners of war who are physically fit, taking into account their age, sex, rank and physical aptitude, and with a view particularly to maintaining them in a good state of physical and mental health.

Non-commissioned officers who are prisoners of war shall only be required to do supervisory work. Those not so required may ask for other suitable work which shall, so far as possible, be found for them.

If officers or persons of equivalent status ask for suitable work, it shall be found for them, so far as possible, but they may in no circumstances be compelled to work.

Art 50. Besides work connected with camp administration, installation or maintenance, prisoners of war may be compelled to do only such work as is included in the following classes:

- (a) agriculture;
- (b) industries connected with the production or the extraction of raw materials, and manufacturing industries, with the exception of metallurgical, machinery and chemical industries; public works and building operations which have no military character or purpose;
- (c) transport and handling of stores which are not military in character or purpose;
- (d) commercial business, and arts and crafts;
- (e) domestic service;
- (f) public utility services having no military character or purpose.

Should the above provisions be infringed, prisoners of war shall be allowed to exercise their right of complaint, in conformity with Article 78.

Art 51. Prisoners of war must be granted suitable working conditions, especially as regards accommodation, food, clothing and equipment; such conditions shall not be inferior to those enjoyed by nationals of the

Detaining Power employed in similar work; account shall also be taken of climatic conditions.

The Detaining Power, in utilizing the labour of prisoners of war, shall ensure that in areas in which such prisoners are employed, the national legislation concerning the protection of labour, and, more particularly, the regulations for the safety of workers, are duly applied.

Prisoners of war shall receive training and be provided with the means of protection suitable to the work they will have to do and similar to those accorded to the nationals of the Detaining Power. Subject to the provisions of Article 52, prisoners may be submitted to the normal risks run by these civilian workers.

Conditions of labour shall in no case be rendered more arduous by disciplinary measures.

Art 52. Unless he be a volunteer, no prisoner of war may be employed on labour which is of an unhealthy or dangerous nature.

No prisoner of war shall be assigned to labour which would be looked upon as humiliating for a member of the Detaining Power's own forces.

The removal of mines or similar devices shall be considered as dangerous labour.

Art 53. The duration of the daily labour of prisoners of war, including the time of the journey to and fro, shall not be excessive, and must in no case exceed that permitted for civilian workers in the district, who are nationals of the Detaining Power and employed on the same work.

Prisoners of war must be allowed, in the middle of the day's work, a rest of not less than one hour. This rest will be the same as that to which workers of the Detaining Power are entitled, if the latter is of longer duration. They shall be allowed in addition a rest of twenty-four consecutive hours every week, preferably on Sunday or the day of rest in their country of origin. Furthermore, every prisoner who has worked for one year shall be granted a rest of eight consecutive days, during which his working pay shall be paid him.

If methods of labour such as piece work are employed, the length of the working period shall not be rendered excessive thereby.

Art 54. The working pay due to prisoners of war shall be fixed in accordance with the provisions of Article 62 of the present Convention.

Prisoners of war who sustain accidents in connection with work, or who contract a disease in the course, or in consequence of their work, shall receive all the care their condition may require. The Detaining Power shall furthermore deliver to such prisoners of war a medical certificate enabling them to submit their claims to the Power on which they depend, and shall send a duplicate to the Central Prisoners of War Agency provided for in Article 123.

Art 55. The fitness of prisoners of war for work shall be periodically verified by medical examinations at least once a month. The examinations shall have particular regard to the nature of the work which prisoners of war are required to do.

If any prisoner of war considers himself incapable of working, he shall be permitted to appear before the medical authorities of his camp. Physicians or surgeons may recommend that the prisoners who are, in their opinion, unfit for work, be exempted therefrom.

Art 56. The organization and administration of labour detachments shall be similar to those of prisoner of war camps.

Every labour detachment shall remain under the control of and administratively part of a prisoner of war camp. The military authorities and the commander of the said camp shall be responsible, under the direction of their government, for the observance of the provisions of the present Convention in labour detachments.

The camp commander shall keep an up-to-date record of the labour detachments dependent on his camp, and shall communicate it to the delegates of the Protecting Power, of the International Committee of the Red Cross, or of other agencies giving relief to prisoners of war, who may visit the camp.

Art 57. The treatment of prisoners of war who work for private persons, even if the latter are responsible for guarding and protecting them, shall not be inferior to that which is provided for by the present Convention. The Detaining Power, the military authorities and the commander of the camp to which such prisoners belong shall be entirely responsible for the maintenance, care, treatment, and payment of the working pay of such prisoners of war.

Such prisoners of war shall have the right to remain in communication with the prisoners' representatives in the camps on which they depend.

Section IV. Financial Resources of Prisoners of War

Art 58. Upon the outbreak of hostilities, and pending an arrangement on this matter with the Protecting Power, the Detaining Power may determine the maximum amount of money in cash or in any similar form, that prisoners may have in their possession. Any amount in excess, which was properly in their possession and which has been taken or withheld from them, shall be placed to their account, together with any monies deposited by them, and shall not be converted into any other currency without their consent.

If prisoners of war are permitted to purchase services or commodities outside the camp against payment in cash, such payments shall be made by the prisoner himself or by the camp administration who will charge them to the accounts of the prisoners concerned. The Detaining Power will establish the necessary rules in this respect.

Art 59. Cash which was taken from prisoners of war, in accordance with Article 18, at the time of their capture, and which is in the currency of the Detaining Power, shall be placed to their separate accounts, in accordance with the provisions of Article 64 of the present Section.

The amounts, in the currency of the Detaining Power, due to the conversion of sums in other currencies that are taken from the prisoners of war at the same time, shall also be credited to their separate accounts.

Art 60. The Detaining Power shall grant all prisoners of war a monthly advance of pay, the amount of which shall be fixed by conversion, into the currency of the said Power, of the following amounts:

Category I : Prisoners ranking below sergeants: eight Swiss francs.

Category II : Sergeants and other non-commissioned officers, or prisoners of equivalent rank: twelve Swiss francs.

Category III: Warrant officers and commissioned officers below the rank of major or prisoners of equivalent rank: fifty Swiss francs.

Category IV : Majors, lieutenant-colonels, colonels or prisoners of equivalent rank: sixty Swiss francs.

Category V : General officers or prisoners of war of equivalent rank: seventy-five Swiss francs.

However, the Parties to the conflict concerned may by special agreement modify the amount of advances of pay due to prisoners of the preceding categories.

Furthermore, if the amounts indicated in the first paragraph above would be unduly high compared with the pay of the Detaining Power's armed forces or would, for any reason, seriously embarrass the Detaining Power, then, pending the conclusion of a special agreement with the Power on which the prisoners depend to vary the amounts indicated above, the Detaining Power:

(a) shall continue to credit the accounts of the prisoners with the amounts indicated in the first paragraph above;

(b) may temporarily limit the amount made available from these advances of pay to prisoners of war for their own use, to sums which are reasonable, but which, for Category I, shall never be inferior to the amount that the Detaining Power gives to the members of its own armed forces.

The reasons for any limitations will be given without delay to the Protecting Power.

Art 61. The Detaining Power shall accept for distribution as supplementary pay to prisoners of war sums which the Power on which the prisoners depend may forward to them, on condition that the sums to be paid shall be the same for each prisoner of the same category, shall be payable to all prisoners of that category depending on that Power, and shall be placed in their separate accounts, at the earliest opportunity, in accordance with the provisions of Article 64. Such supplementary pay shall not relieve the Detaining Power of any obligation under this Convention.

Art 62. Prisoners of war shall be paid a fair working rate of pay by the detaining authorities direct. The rate shall be fixed by the said authorities, but shall at no time be less than one-fourth of one Swiss franc for a full

working day. The Detaining Power shall inform prisoners of war, as well as the Power on which they depend, through the intermediary of the Protecting Power, of the rate of daily working pay that it has fixed.

Working pay shall likewise be paid by the detaining authorities to prisoners of war permanently detailed to duties or to a skilled or semi-skilled occupation in connection with the administration, installation or maintenance of camps, and to the prisoners who are required to carry out spiritual or medical duties on behalf of their comrades.

The working pay of the prisoners' representative, of his advisers, if any, and of his assistants, shall be paid out of the fund maintained by canteen profits. The scale of this working pay shall be fixed by the prisoners' representative and approved by the camp commander. If there is no such fund, the detaining authorities shall pay these prisoners a fair working rate of pay.

Art 63. Prisoners of war shall be permitted to receive remittances of money addressed to them individually or collectively.

Every prisoner of war shall have at his disposal the credit balance of his account as provided for in the following Article, within the limits fixed by the Detaining Power, which shall make such payments as are requested. Subject to financial or monetary restrictions which the Detaining Power regards as essential, prisoners of war may also have payments made abroad. In this case payments addressed by prisoners of war to dependents shall be given priority.

In any event, and subject to the consent of the Power on which they depend, prisoners may have payments made in their own country, as follows: the Detaining Power shall send to the aforesaid Power through the Protecting Power, a notification giving all the necessary particulars concerning the prisoners of war, the beneficiaries of the payments, and the amount of the sums to be paid, expressed in the Detaining Power's currency. The said notification shall be signed by the prisoners and countersigned by the camp commander. The Detaining Power shall debit the prisoners' account by a corresponding amount; the sums thus debited shall be placed by it to the credit of the Power on which the prisoners depend.

To apply the foregoing provisions, the Detaining Power may usefully consult the Model Regulations in Annex V of the present Convention.

Art. 64 The Detaining Power shall hold an account for each prisoner of war, showing at least the following:

(1) The amounts due to the prisoner or received by him as advances of pay, as working pay or derived from any other source; the sums in the currency of the Detaining Power which were taken from him; the sums taken from him and converted at his request into the currency of the said Power.

(2) The payments made to the prisoner in cash, or in any other similar form; the payments made on his behalf and at his request; the sums transferred under Article 63, third paragraph.

Art 65. Every item entered in the account of a prisoner of war shall be countersigned or initialled by him, or by the prisoners' representative acting on his behalf.

Prisoners of war shall at all times be afforded reasonable facilities for consulting and obtaining copies of their accounts, which may likewise be inspected by the representatives of the Protecting Powers at the time of visits to the camp.

When prisoners of war are transferred from one camp to another, their personal accounts will follow them. In case of transfer from one Detaining Power to another, the monies which are their property and are not in the currency of the Detaining Power will follow them. They shall be given certificates for any other monies standing to the credit of their accounts.

The Parties to the conflict concerned may agree to notify to each other at specific intervals through the Protecting Power, the amount of the accounts of the prisoners of war.

Art 66. On the termination of captivity, through the release of a prisoner of war or his repatriation, the Detaining Power shall give him a statement, signed by an authorized officer of that Power, showing the credit balance then due to him. The Detaining Power shall also send through the Protecting Power to the government upon which the prisoner of war depends, lists giving all appropriate particulars of all prisoners of war whose captivity has been terminated by repatriation, release, escape, death or any other means, and showing the amount of their credit balances. Such lists shall be certified on each sheet by an authorized representative of the Detaining Power.

Any of the above provisions of this Article may be varied by mutual agreement between any two Parties to

the conflict.

The Power on which the prisoner of war depends shall be responsible for settling with him any credit balance due to him from the Detaining Power on the termination of his captivity.

Art 67. Advances of pay, issued to prisoners of war in conformity with Article 60, shall be considered as made on behalf of the Power on which they depend. Such advances of pay, as well as all payments made by the said Power under Article 63, third paragraph, and Article 68, shall form the subject of arrangements between the Powers concerned, at the close of hostilities.

Art 68. Any claim by a prisoner of war for compensation in respect of any injury or other disability arising out of work shall be referred to the Power on which he depends, through the Protecting Power. In accordance with Article 54, the Detaining Power will, in all cases, provide the prisoner of war concerned with a statement showing the nature of the injury or disability, the circumstances in which it arose and particulars of medical or hospital treatment given for it. This statement will be signed by a responsible officer of the Detaining Power and the medical particulars certified by a medical officer.

Any claim by a prisoner of war for compensation in respect of personal effects monies or valuables impounded by the Detaining Power under Article 18 and not forthcoming on his repatriation, or in respect of loss alleged to be due to the fault of the Detaining Power or any of its servants, shall likewise be referred to the Power on which he depends. Nevertheless, any such personal effects required for use by the prisoners of war whilst in captivity shall be replaced at the expense of the Detaining Power. The Detaining Power will, in all cases, provide the prisoner of war with a statement, signed by a responsible officer, showing all available information regarding the reasons why such effects, monies or valuables have not been restored to him. A copy of this statement will be forwarded to the Power on which he depends through the Central Prisoners of War Agency provided for in Article 123.

Section V. Relations of Prisoners of War With the Exterior

Art 69. Immediately upon prisoners of war falling into its power, the Detaining Power shall inform them and the Powers on which they depend, through the Protecting Power, of the measures taken to carry out the provisions of the present Section. They shall likewise inform the parties concerned of any subsequent modifications of such measures.

Art 70. Immediately upon capture, or not more than one week after arrival at a camp, even if it is a transit camp, likewise in case of sickness or transfer to hospital or to another camp, every prisoner of war shall be enabled to write direct to his family, on the one hand, and to the Central Prisoners of War Agency provided for in Article 123, on the other hand, a card similar, if possible, to the model annexed to the present Convention, informing his relatives of his capture, address and state of health. The said cards shall be forwarded as rapidly as possible and may not be delayed in any manner.

Art 71. Prisoners of war shall be allowed to send and receive letters and cards. If the Detaining Power deems it necessary to limit the number of letters and cards sent by each prisoner of war, the said number shall not be less than two letters and four cards monthly, exclusive of the capture cards provided for in Article 70, and conforming as closely as possible to the models annexed to the present Convention. Further limitations may be imposed only if the Protecting Power is satisfied that it would be in the interests of the prisoners of war concerned to do so owing to difficulties of translation caused by the Detaining Power's inability to find sufficient qualified linguists to carry out the necessary censorship. If limitations must be placed on the correspondence addressed to prisoners of war, they may be ordered only by the Power on which the prisoners depend, possibly at the request of the Detaining Power. Such letters and cards must be conveyed by the most rapid method at the disposal of the Detaining Power; they may not be delayed or retained for disciplinary reasons.

Prisoners of war who have been without news for a long period, or who are unable to receive news from their next of kin or to give them news by the ordinary postal route, as well as those who are at a great distance from their homes, shall be permitted to send telegrams, the fees being charged against the prisoners of war's accounts with the Detaining Power or paid in the currency at their disposal. They shall likewise benefit by this measure in cases of urgency.

As a general rule, the correspondence of prisoners of war shall be written in their native language. The Parties to the conflict may allow correspondence in other languages.

Sacks containing prisoner of war mail must be securely sealed and labelled so as clearly to indicate their contents, and must be addressed to offices of destination.

Art 72. Prisoners of war shall be allowed to receive by post or by any other means individual parcels or

to such means of transport.

In the absence of special agreements, the costs occasioned by the use of such means of transport shall be borne proportionally by the Parties to the conflict whose nationals are benefited thereby.

Art 76. The censoring of correspondence addressed to prisoners of war or despatched by them shall be done as quickly as possible. Mail shall be censored only by the despatching State and the receiving State, and once only by each.

The examination of consignments intended for prisoners of war shall not be carried out under conditions that will expose the goods contained in them to deterioration; except in the case of written or printed matter, it shall be done in the presence of the addressee, or of a fellow-prisoner duly delegated by him. The delivery to prisoners of individual or collective consignments shall not be delayed under the pretext of difficulties of censorship.

Any prohibition of correspondence ordered by Parties to the conflict, either for military or political reasons, shall be only temporary and its duration shall be as short as possible.

Art 77. The Detaining Powers shall provide all facilities for the transmission, through the Protecting Power or the Central Prisoners of War Agency provided for in Article 123 of instruments, papers or documents intended for prisoners of war or despatched by them, especially powers of attorney and wills.

In all cases they shall facilitate the preparation and execution of such documents on behalf of prisoners of war; in particular, they shall allow them to consult a lawyer and shall take what measures are necessary for the authentication of their signatures.

Section VI. Relations Between Prisoners of War and the Authorities

Chapter I. Complaints of Prisoners of War Respecting the Conditions of Captivity

Art 78 Prisoners of war shall have the right to make known to the military authorities in whose power they are, their requests regarding the conditions of captivity to which they are subjected.

They shall also have the unrestricted right to apply to the representatives of the Protecting Powers either through their prisoners' representative or, if they consider it necessary, direct, in order to draw their attention to any points on which they may have complaints to make regarding their conditions of captivity.

These requests and complaints shall not be limited nor considered to be a part of the correspondence quota referred to in Article 71. They must be transmitted immediately. Even if they are recognized to be unfounded, they may not give rise to any punishment.

Prisoners' representatives may send periodic reports on the situation in the camps and the needs of the prisoners of war to the representatives of the Protecting Powers.

Chapter II. Prisoner of War Representatives

Art 79. In all places where there are prisoners of war, except in those where there are officers, the prisoners shall freely elect by secret ballot, every six months, and also in case of vacancies, prisoners' representatives entrusted with representing them before the military authorities, the Protecting Powers, the International Committee of the Red Cross and any other organization which may assist them. These prisoners' representatives shall be eligible for re-election.

In camps for officers and persons of equivalent status or in mixed camps, the senior officer among the prisoners of war shall be recognized as the camp prisoners' representative. In camps for officers, he shall be assisted by one or more advisers chosen by the officers; in mixed camps, his assistants shall be chosen from among the prisoners of war who are not officers and shall be elected by them.

Officer prisoners of war of the same nationality shall be stationed in labour camps for prisoners of war, for the purpose of carrying out the camp administration duties for which the prisoners of war are responsible. These officers may be elected as prisoners' representatives under the first paragraph of this Article. In such a case the assistants to the prisoners' representatives shall be chosen from among those prisoners of war who are not officers.

Every representative elected must be approved by the Detaining Power before he has the right to commence his duties. Where the Detaining Power refuses to approve a prisoner of war elected by his fellow prisoners of war, it must inform the Protecting Power of the reason for such refusal.

In all cases the prisoners' representative must have the same nationality, language and customs as the prisoners of war whom he represents. Thus, prisoners of war distributed in different sections of a camp, according to their nationality, language or customs, shall have for each section their own prisoners' representative, in accordance with the foregoing paragraphs.

Art 80. Prisoners' representatives shall further the physical, spiritual and intellectual well-being of prisoners of war.

In particular, where the prisoners decide to organize amongst themselves a system of mutual assistance, this organization will be within the province of the prisoners' representative, in addition to the special duties entrusted to him by other provisions of the present Convention.

Prisoners' representatives shall not be held responsible, simply by reason of their duties, for any offences committed by prisoners of war.

Art 81. Prisoners' representatives shall not be required to perform any other work, if the accomplishment of their duties is thereby made more difficult.

Prisoners' representatives may appoint from amongst the prisoners such assistants as they may require. All material facilities shall be granted them, particularly a certain freedom of movement necessary for the accomplishment of their duties (inspection of labour detachments, receipt of supplies, etc.).

Prisoners' representatives shall be permitted to visit premises where prisoners of war are detained, and every prisoner of war shall have the right to consult freely his prisoners' representative.

All facilities shall likewise be accorded to the prisoners' representatives for communication by post and telegraph with the detaining authorities, the Protecting Powers, the International Committee of the Red Cross and their delegates, the Mixed Medical Commissions and the bodies which give assistance to prisoners of war. Prisoners' representatives of labour detachments shall enjoy the same facilities for communication with the prisoners' representatives of the principal camp. Such communications shall not be restricted, nor considered as forming a part of the quota mentioned in Article 71.

Prisoners' representatives who are transferred shall be allowed a reasonable time to acquaint their successors with current affairs.

In case of dismissal, the reasons therefor shall be communicated to the Protecting Power.

Chapter III. Penal and Disciplinary Sanctions

I. General Provisions

Art 82. A prisoner of war shall be subject to the laws, regulations and orders in force in the armed forces of the Detaining Power; the Detaining Power shall be justified in taking judicial or disciplinary measures in respect of any offence committed by a prisoner of war against such laws, regulations or orders. However, no proceedings or punishments contrary to the provisions of this Chapter shall be allowed.

If any law, regulation or order of the Detaining Power shall declare acts committed by a prisoner of war to be punishable, whereas the same acts would not be punishable if committed by a member of the forces of the Detaining Power, such acts shall entail disciplinary punishments only.

Art 83. In deciding whether proceedings in respect of an offence alleged to have been committed by a prisoner of war shall be judicial or disciplinary, the Detaining Power shall ensure that the competent authorities exercise the greatest leniency and adopt, wherever possible, disciplinary rather than judicial measures.

Art 84. A prisoner of war shall be tried only by a military court, unless the existing laws of the Detaining Power expressly permit the civil courts to try a member of the armed forces of the Detaining Power in respect of the particular offence alleged to have been committed by the prisoner of war.

In no circumstances whatever shall a prisoner of war be tried by a court of any kind which does not offer the essential guarantees of independence and impartiality as generally recognized, and, in particular, the procedure of which does not afford the accused the rights and means of defence provided for in Article 105.

Art 85. Prisoners of war prosecuted under the laws of the Detaining Power for acts committed prior to capture shall retain, even if convicted, the benefits of the present Convention.

Art 86. No prisoner of war may be punished more than once for the same act or on the same charge.

Art 87. Prisoners of war may not be sentenced by the military authorities and courts of the Detaining Power to any penalties except those provided for in respect of members of the armed forces of the said Power who have committed the same acts.

When fixing the penalty, the courts or authorities of the Detaining Power shall take into consideration, to the widest extent possible, the fact that the accused, not being a national of the Detaining Power, is not bound to it by any duty of allegiance, and that he is in its power as the result of circumstances independent of his own will. The said courts or authorities shall be at liberty to reduce the penalty provided for the violation of which the prisoner of war is accused, and shall therefore not be bound to apply the minimum penalty prescribed.

Collective punishment for individual acts, corporal punishment, imprisonment in premises without daylight and, in general, any form of torture or cruelty, are forbidden.

No prisoner of war may be deprived of his rank by the Detaining Power, or prevented from wearing his badges.

Art 88. Officers, non-commissioned officers and men who are prisoners of war undergoing a disciplinary or judicial punishment, shall not be subjected to more severe treatment than that applied in respect of the same punishment to members of the armed forces of the Detaining Power of equivalent rank.

A woman prisoner of war shall not be awarded or sentenced to a punishment more severe, or treated whilst undergoing punishment more severely, than a woman member of the armed forces of the Detaining Power dealt with for a similar offence.

In no case may a woman prisoner of war be awarded or sentenced to a punishment more severe, or treated whilst undergoing punishment more severely, than a male member of the armed forces of the Detaining Power dealt with for a similar offence.

Prisoners of war who have served disciplinary or judicial sentences may not be treated differently from other prisoners of war.

II. Disciplinary Sanctions

Art 89. The disciplinary punishments applicable to prisoners of war are the following:

- (1) A fine which shall not exceed 50 per cent of the advances of pay and working pay which the prisoner of war would otherwise receive under the provisions of Articles 60 and 62 during a period of not more than thirty days.
- (2) Discontinuance of privileges granted over and above the treatment provided for by the present Convention.
- (3) Fatigue duties not exceeding two hours daily.
- (4) Confinement.

The punishment referred to under (3) shall not be applied to officers.

In no case shall disciplinary punishments be inhuman, brutal or dangerous to the health of prisoners of war.

Art 90. The duration of any single punishment shall in no case exceed thirty days. Any period of confinement awaiting the hearing of a disciplinary offence or the award of disciplinary punishment shall be deducted from an award pronounced against a prisoner of war.

The maximum of thirty days provided above may not be exceeded, even if the prisoner of war is answerable for several acts at the same time when he is awarded punishment, whether such acts are related or not.

The period between the pronouncing of an award of disciplinary punishment and its execution shall not exceed one month.

When a prisoner of war is awarded a further disciplinary punishment, a period of at least three days shall elapse between the execution of any two of the punishments, if the duration of one of these is ten days or

more.

Art 91. The escape of a prisoner of war shall be deemed to have succeeded when:

- (1) he has joined the armed forces of the Power on which he depends, or those of an allied Power;
- (2) he has left the territory under the control of the Detaining Power, or of an ally of the said Power;
- (3) he has joined a ship flying the flag of the Power on which he depends, or of an allied Power, in the territorial waters of the Detaining Power, the said ship not being under the control of the last named Power.

Prisoners of war who have made good their escape in the sense of this Article and who are recaptured, shall not be liable to any punishment in respect of their previous escape.

Art 92. A prisoner of war who attempts to escape and is recaptured before having made good his escape in the sense of Article 91 shall be liable only to a disciplinary punishment in respect of this act, even if it is a repeated offence.

A prisoner of war who is recaptured shall be handed over without delay to the competent military authority.

Article 88, fourth paragraph, notwithstanding, prisoners of war punished as a result of an unsuccessful escape may be subjected to special surveillance. Such surveillance must not affect the state of their health, must be undergone in a prisoner of war camp, and must not entail the suppression of any of the safeguards granted them by the present Convention.

Art 93. Escape or attempt to escape, even if it is a repeated offence, shall not be deemed an aggravating circumstance if the prisoner of war is subjected to trial by judicial proceedings in respect of an offence committed during his escape or attempt to escape.

In conformity with the principle stated in Article 83, offences committed by prisoners of war with the sole intention of facilitating their escape and which do not entail any violence against life or limb, such as offences against public property, theft without intention of self-enrichment, the drawing up or use of false papers, or the wearing of civilian clothing, shall occasion disciplinary punishment only.

Prisoners of war who aid or abet an escape or an attempt to escape shall be liable on this count to disciplinary punishment only.

Art 94. If an escaped prisoner of war is recaptured, the Power on which he depends shall be notified thereof in the manner defined in Article 122, provided notification of his escape has been made.

Art 95. A prisoner of war accused of an offence against discipline shall not be kept in confinement pending the hearing unless a member of the armed forces of the Detaining Power would be so kept if he were accused of a similar offence, or if it is essential in the interests of camp order and discipline.

Any period spent by a prisoner of war in confinement awaiting the disposal of an offence against discipline shall be reduced to an absolute minimum and shall not exceed fourteen days.

The provisions of Articles 97 and 98 of this Chapter shall apply to prisoners of war who are in confinement awaiting the disposal of offences against discipline.

Art 96. Acts which constitute offences against discipline shall be investigated immediately.

Without prejudice to the competence of courts and superior military authorities, disciplinary punishment may be ordered only by an officer having disciplinary powers in his capacity as camp commander, or by a responsible officer who replaces him or to whom he has delegated his disciplinary powers.

In no case may such powers be delegated to a prisoner of war or be exercised by a prisoner of war.

Before any disciplinary award is pronounced, the accused shall be given precise information regarding the offences of which he is accused, and given an opportunity of explaining his conduct and of defending himself. He shall be permitted, in particular, to call witnesses and to have recourse, if necessary, to the services of a qualified interpreter. The decision shall be announced to the accused prisoner of war and to the prisoners' representative.

A record of disciplinary punishments shall be maintained by the camp commander and shall be open to

inspection by representatives of the Protecting Power.

Art 97. Prisoners of war shall not in any case be transferred to penitentiary establishments (prisons, penitentiaries, convict prisons, etc.) to undergo disciplinary punishment therein.

All premises in which disciplinary punishments are undergone shall conform to the sanitary requirements set forth in Article 25. A prisoner of war undergoing punishment shall be enabled to keep himself in a state of cleanliness, in conformity with Article 29.

Officers and persons of equivalent status shall not be lodged in the same quarters as non-commissioned officers or men.

Women prisoners of war undergoing disciplinary punishment shall be confined in separate quarters from male prisoners of war and shall be under the immediate supervision of women.

Art 98. A prisoner of war undergoing confinement as a disciplinary punishment, shall continue to enjoy the benefits of the provisions of this Convention except in so far as these are necessarily rendered inapplicable by the mere fact that he is confined. In no case may he be deprived of the benefits of the provisions of Articles 78 and 126.

A prisoner of war awarded disciplinary punishment may not be deprived of the prerogatives attached to his rank.

Prisoners of war awarded disciplinary punishment shall be allowed to exercise and to stay in the open air at least two hours daily.

They shall be allowed, on their request, to be present at the daily medical inspections. They shall receive the attention which their state of health requires and, if necessary, shall be removed to the camp infirmary or to a hospital.

They shall have permission to read and write, likewise to send and receive letters. Parcels and remittances of money however, may be withheld from them until the completion of the punishment; they shall meanwhile be entrusted to the prisoners' representative, who will hand over to the infirmary the perishable goods contained in such parcels.

III. Juridicial Proceedings

Art 99. No prisoner of war may be tried or sentenced for an act which is not forbidden by the law of the Detaining Power or by international law, in force at the time the said act was committed.

No moral or physical coercion may be exerted on a prisoner of war in order to induce him to admit himself guilty of the act of which he is accused.

No prisoner of war may be convicted without having had an opportunity to present his defence and the assistance of a qualified advocate or counsel.

Art 100. Prisoners of war and the Protecting Powers shall be informed as soon as possible of the offences which are punishable by the death sentence under the laws of the Detaining Power.

Other offences shall not thereafter be made punishable by the death penalty without the concurrence of the Power on which the prisoners of war depend.

The death sentence cannot be pronounced on a prisoner of war unless the attention of the court has, in accordance with Article 87, second paragraph, been particularly called to the fact that since the accused is not a national of the Detaining Power, he is not bound to it by any duty of allegiance, and that he is in its power as the result of circumstances independent of his own will.

Art 101. If the death penalty is pronounced on a prisoner of war, the sentence shall not be executed before the expiration of a period of at least six months from the date when the Protecting Power receives, at an indicated address, the detailed communication provided for in Article 107.

Art 102. A prisoner of war can be validly sentenced only if the sentence has been pronounced by the same courts according to the same procedure as in the case of members of the armed forces of the Detaining Power, and if, furthermore, the provisions of the present Chapter have been observed.

Art 103. Judicial investigations relating to a prisoner of war shall be conducted as rapidly as circumstances permit and so that his trial shall take place as soon as possible. A prisoner of war shall not be confined while awaiting trial unless a member of the armed forces of the Detaining Power would be so confined if he were accused of a similar offence, or if it is essential to do so in the interests of national security. In no circumstances shall this confinement exceed three months.

Any period spent by a prisoner of war in confinement awaiting trial shall be deducted from any sentence of imprisonment passed upon him and taken into account in fixing any penalty.

The provisions of Articles 97 and 98 of this Chapter shall apply to a prisoner of war whilst in confinement awaiting trial.

Art 104. In any case in which the Detaining Power has decided to institute judicial proceedings against a prisoner of war, it shall notify the Protecting Power as soon as possible and at least three weeks before the opening of the trial. This period of three weeks shall run as from the day on which such notification reaches the Protecting Power at the address previously indicated by the latter to the Detaining Power.

The said notification shall contain the following information:

- (1) Surname and first names of the prisoner of war, his rank, his army, regimental, personal or serial number, his date of birth, and his profession or trade, if any;
- (2) Place of internment or confinement;
- (3) Specification of the charge or charges on which the prisoner of war is to be arraigned, giving the legal provisions applicable;
- (4) Designation of the court which will try the case, likewise the date and place fixed for the opening of the trial.

The same communication shall be made by the Detaining Power to the prisoners' representative.

If no evidence is submitted, at the opening of a trial, that the notification referred to above was received by the Protecting Power, by the prisoner of war and by the prisoners' representative concerned, at least three weeks before the opening of the trial, then the latter cannot take place and must be adjourned.

Art 105. The prisoner of war shall be entitled to assistance by one of his prisoner comrades, to defence by a qualified advocate or counsel of his own choice, to the calling of witnesses and, if he deems necessary, to the services of a competent interpreter. He shall be advised of these rights by the Detaining Power in due time before the trial.

Failing a choice by the prisoner of war, the Protecting Power shall find him an advocate or counsel, and shall have at least one week at its disposal for the purpose. The Detaining Power shall deliver to the said Power, on request, a list of persons qualified to present the defence. Failing a choice of an advocate or counsel by the prisoner of war or the Protecting Power, the Detaining Power shall appoint a competent advocate or counsel to conduct the defence.

The advocate or counsel conducting the defence on behalf of the prisoner of war shall have at his disposal a period of two weeks at least before the opening of the trial, as well as the necessary facilities to prepare the defence of the accused. He may, in particular, freely visit the accused and interview him in private. He may also confer with any witnesses for the defence, including prisoners of war. He shall have the benefit of these facilities until the term of appeal or petition has expired.

Particulars of the charge or charges on which the prisoner of war is to be arraigned, as well as the documents which are generally communicated to the accused by virtue of the laws in force in the armed forces of the Detaining Power, shall be communicated to the accused prisoner of war in a language which he understands, and in good time before the opening of the trial. The same communication in the same circumstances shall be made to the advocate or counsel conducting the defence on behalf of the prisoner of war.

The representatives of the Protecting Power shall be entitled to attend the trial of the case, unless, exceptionally, this is held in camera in the interest of State security. In such a case the Detaining Power shall advise the Protecting Power accordingly.

Art 106. Every prisoner of war shall have, in the same manner as the members of the armed forces of the Detaining Power, the right of appeal or petition from any sentence pronounced upon him, with a view to the quashing or revising of the sentence or the reopening of the trial. He shall be fully informed of his right to appeal or petition and of the time limit within which he may do so.

Art 107. Any judgment and sentence pronounced upon a prisoner of war shall be immediately reported to the Protecting Power in the form of a summary communication, which shall also indicate whether he has the right

of appeal with a view to the quashing of the sentence or the reopening of the trial. This communication shall likewise be sent to the prisoners' representative concerned. It shall also be sent to the accused prisoner of war in a language he understands, if the sentence was not pronounced in his presence. The Detaining Power shall also immediately communicate to the Protecting Power the decision of the prisoner of war to use or to waive his right of appeal.

Furthermore, if a prisoner of war is finally convicted or if a sentence pronounced on a prisoner of war in the first instance is a death sentence, the Detaining Power shall as soon as possible address to the Protecting Power a detailed communication containing:

- (1) the precise wording of the finding and sentence;
- (2) a summarized report of any preliminary investigation and of the trial, emphasizing in particular the elements of the prosecution and the defence;
- (3) notification, where applicable, of the establishment where the sentence will be served.

The communications provided for in the foregoing sub-paragraphs shall be sent to the Protecting Power at the address previously made known to the Detaining Power.

Art 108. Sentences pronounced on prisoners of war after a conviction has become duly enforceable, shall be served in the same establishments and under the same conditions as in the case of members of the armed forces of the Detaining Power. These conditions shall in all cases conform to the requirements of health and humanity.

A woman prisoner of war on whom such a sentence has been pronounced shall be confined in separate quarters and shall be under the supervision of women.

In any case, prisoners of war sentenced to a penalty depriving them of their liberty shall retain the benefit of the provisions of Articles 78 and 126 of the present Convention. Furthermore, they shall be entitled to receive and despatch correspondence, to receive at least one relief parcel monthly, to take regular exercise in the open air, to have the medical care required by their state of health, and the spiritual assistance they may desire. Penalties to which they may be subjected shall be in accordance with the provisions of Article 87, third paragraph.

Part IV. Termination of Captivity

Section I. Direct Repatriation and Accommodation in Neutral Countries

Art 109. Subject to the provisions of the third paragraph of this Article, Parties to the conflict are bound to send back to their own country, regardless of number or rank, seriously wounded and seriously sick prisoners of war, after having cared for them until they are fit to travel, in accordance with the first paragraph of the following Article.

Throughout the duration of hostilities, Parties to the conflict shall endeavour, with the cooperation of the neutral Powers concerned, to make arrangements for the accommodation in neutral countries of the sick and wounded prisoners of war referred to in the second paragraph of the following Article. They may, in addition, conclude agreements with a view to the direct repatriation or internment in a neutral country of able-bodied prisoners of war who have undergone a long period of captivity.

No sick or injured prisoner of war who is eligible for repatriation under the first paragraph of this Article, may be repatriated against his will during hostilities.

Art 110. The following shall be repatriated direct:

- (1) Incurably wounded and sick whose mental or physical fitness seems to have been gravely diminished.
- (2) Wounded and sick who, according to medical opinion, are not likely to recover within one year, whose condition requires treatment and whose mental or physical fitness seems to have been gravely diminished.
- (3) Wounded and sick who have recovered, but whose mental or physical fitness seems to have been gravely and permanently diminished.

The following may be accommodated in a neutral country:

- (1) Wounded and sick whose recovery may be expected within one year of the date of the wound or the beginning of the illness, if treatment in a neutral country might increase the prospects of a more certain and speedy recovery.
- (2) Prisoners of war whose mental or physical health, according to medical opinion, is seriously threatened by continued captivity, but whose accommodation in a neutral country might remove such a threat.

The conditions which prisoners of war accommodated in a neutral country must fulfil in order to permit their repatriation shall be fixed, as shall likewise their status, by agreement between the Powers concerned. In general, prisoners of war who have been accommodated in a neutral country, and who belong to the following categories, should be repatriated:

- (1) Those whose state of health has deteriorated so as to fulfil the condition laid down for direct repatriation;
- (2) Those whose mental or physical powers remain, even after treatment, considerably impaired.

If no special agreements are concluded between the Parties to the conflict concerned, to determine the cases of disablement or sickness entailing direct repatriation or accommodation in a neutral country, such cases shall be settled in accordance with the principles laid down in the Model Agreement concerning direct repatriation and accommodation in neutral countries of wounded and sick prisoners of war and in the Regulations concerning Mixed Medical Commissions annexed to the present Convention.

Art 111. The Detaining Power, the Power on which the prisoners of war depend, and a neutral Power agreed upon by these two Powers, shall endeavour to conclude agreements which will enable prisoners of war to be interned in the territory of the said neutral Power until the close of hostilities.

Art 112. Upon the outbreak of hostilities, Mixed Medical Commissions shall be appointed to examine sick and wounded prisoners of war, and to make all appropriate decisions regarding them. The appointment, duties and functioning of these Commissions shall be in conformity with the provisions of the Regulations annexed to the present Convention.

However, prisoners of war who, in the opinion of the medical authorities of the Detaining Power, are manifestly seriously injured or seriously sick, may be repatriated without having to be examined by a Mixed Medical Commission.

Art 113. Besides those who are designated by the medical authorities of the Detaining Power, wounded or sick prisoners of war belonging to the categories listed below shall be entitled to present themselves for examination by the Mixed Medical Commissions provided for in the foregoing Article:

- (1) Wounded and sick proposed by a physician or surgeon who is of the same nationality, or a national of a Party to the conflict allied with the Power on which the said prisoners depend, and who exercises his functions in the camp.
- (2) Wounded and sick proposed by their prisoners' representative.
- (3) Wounded and sick proposed by the Power on which they depend, or by an organization duly recognized by the said Power and giving assistance to the prisoners.

Prisoners of war who do not belong to one of the three foregoing categories may nevertheless present themselves for examination by Mixed Medical Commissions, but shall be examined only after those belonging to the said categories.

The physician or surgeon of the same nationality as the prisoners who present themselves for examination by the Mixed Medical Commission, likewise the prisoners' representative of the said prisoners, shall have permission to be present at the examination.

Art 114. Prisoners of war who meet with accidents shall, unless the injury is self-inflicted, have the benefit of the provisions of this Convention as regards repatriation or accommodation in a neutral country.

Art 115. No prisoner of war on whom a disciplinary punishment has been imposed and who is eligible for repatriation or for accommodation in a neutral country, may be kept back on the plea that he has not undergone his punishment.

Prisoners of war detained in connection with a judicial prosecution or conviction, and who are designated for repatriation or accommodation in a neutral country, may benefit by such measures before the end of the proceedings or the completion of the punishment, if the Detaining Power consents.

Parties to the conflict shall communicate to each other the names of those who will be detained until the end of the proceedings or the completion of the punishment.

Art 116. The cost of repatriating prisoners of war or of transporting them to a neutral country shall be borne,

from the frontiers of the Detaining Power, by the Power on which the said prisoners depend.

Art 117. No repatriated person may be employed on active military service.

Section II. Release and Repatriation of Prisoners of War at the Close of Hostilities

Art 118. Prisoners of war shall be released and repatriated without delay after the cessation of active hostilities.

In the absence of stipulations to the above effect in any agreement concluded between the Parties to the conflict with a view to the cessation of hostilities, or failing any such agreement, each of the Detaining Powers shall itself establish and execute without delay a plan of repatriation in conformity with the principle laid down in the foregoing paragraph.

In either case, the measures adopted shall be brought to the knowledge of the prisoners of war.

The costs of repatriation of prisoners of war shall in all cases be equitably apportioned between the Detaining Power and the Power on which the prisoners depend. This apportionment shall be carried out on the following basis:

(a) If the two Powers are contiguous, the Power on which the prisoners of war depend shall bear the costs of repatriation from the frontiers of the Detaining Power.

(b) If the two Powers are not contiguous, the Detaining Power shall bear the costs of transport of prisoners of war over its own territory as far as its frontier or its port of embarkation nearest to the territory of the Power on which the prisoners of war depend. The Parties concerned shall agree between themselves as to the equitable apportionment of the remaining costs of the repatriation. The conclusion of this agreement shall in no circumstances justify any delay in the repatriation of the prisoners of war.

Art 119. Repatriation shall be effected in conditions similar to those laid down in Articles 46 to 48 inclusive of the present Convention for the transfer of prisoners of war, having regard to the provisions of Article 118 and to those of the following paragraphs.

On repatriation, any articles of value impounded from prisoners of war under Article 18, and any foreign currency which has not been converted into the currency of the Detaining Power, shall be restored to them. Articles of value and foreign currency which, for any reason whatever, are not restored to prisoners of war on repatriation, shall be despatched to the Information Bureau set up under Article 122.

Prisoners of war shall be allowed to take with them their personal effects, and any correspondence and parcels which have arrived for them. The weight of such baggage may be limited, if the conditions of repatriation so require, to what each prisoner can reasonably carry. Each prisoner shall in all cases be authorized to carry at least twenty-five kilograms.

The other personal effects of the repatriated prisoner shall be left in the charge of the Detaining Power which shall have them forwarded to him as soon as it has concluded an agreement to this effect, regulating the conditions of transport and the payment of the costs involved, with the Power on which the prisoner depends.

Prisoners of war against whom criminal proceedings for an indictable offence are pending may be detained until the end of such proceedings, and, if necessary, until the completion of the punishment. The same shall apply to prisoners of war already convicted for an indictable offence.

Parties to the conflict shall communicate to each other the names of any prisoners of war who are detained until the end of the proceedings or until punishment has been completed.

By agreement between the Parties to the conflict, commissions shall be established for the purpose of searching for dispersed prisoners of war and of assuring their repatriation with the least possible delay.

Section III. Death of Prisoners of War

Art 120. Wills of prisoners of war shall be drawn up so as to satisfy the conditions of validity required by the legislation of their country of origin, which will take steps to inform the Detaining Power of its requirements in this respect. At the request of the prisoner of war and, in all cases, after death, the will shall be transmitted without delay to the Protecting Power; a certified copy shall be sent to the Central Agency.

Death certificates, in the form annexed to the present Convention, or lists certified by a responsible officer, of all persons who die as prisoners of war shall be forwarded as rapidly as possible to the Prisoner of War Information Bureau established in accordance with Article 122. The death certificates or certified lists shall

show particulars of identity as set out in the third paragraph of Article 17, and also the date and place of death, the cause of death, the date and place of burial and all particulars necessary to identify the graves.

The burial or cremation of a prisoner of war shall be preceded by a medical examination of the body with a view to confirming death and enabling a report to be made and, where necessary, establishing identity.

The detaining authorities shall ensure that prisoners of war who have died in captivity are honourably buried, if possible according to the rites of the religion to which they belonged, and that their graves are respected, suitably maintained and marked so as to be found at any time. Wherever possible, deceased prisoners of war who depended on the same Power shall be interred in the same place.

Deceased prisoners of war shall be buried in individual graves unless unavoidable circumstances require the use of collective graves. Bodies may be cremated only for imperative reasons of hygiene, on account of the religion of the deceased or in accordance with his express wish to this effect. In case of cremation, the fact shall be stated and the reasons given in the death certificate of the deceased.

In order that graves may always be found, all particulars of burials and graves shall be recorded with a Graves Registration Service established by the Detaining Power. Lists of graves and particulars of the prisoners of war interred in cemeteries and elsewhere shall be transmitted to the Power on which such prisoners of war depended. Responsibility for the care of these graves and for records of any subsequent moves of the bodies shall rest on the Power controlling the territory, if a Party to the present Convention. These provisions shall also apply to the ashes, which shall be kept by the Graves Registration Service until proper disposal thereof in accordance with the wishes of the home country.

Art 121. Every death or serious injury of a prisoner of war caused or suspected to have been caused by a sentry, another prisoner of war, or any other person, as well as any death the cause of which is unknown, shall be immediately followed by an official enquiry by the Detaining Power.

A communication on this subject shall be sent immediately to the Protecting Power. Statements shall be taken from witnesses, especially from those who are prisoners of war, and a report including such statements shall be forwarded to the Protecting Power.

If the enquiry indicates the guilt of one or more persons, the Detaining Power shall take all measures for the prosecution of the person or persons responsible.

PART V. Information Bureaux and Relief Societies for Prisoners of War

Art 122. Upon the outbreak of a conflict and in all cases of occupation, each of the Parties to the conflict shall institute an official Information Bureau for prisoners of war who are in its power. Neutral or non-belligerent Powers who may have received within their territory persons belonging to one of the categories referred to in Article 4, shall take the same action with respect to such persons. The Power concerned shall ensure that the Prisoners of War Information Bureau is provided with the necessary accommodation, equipment and staff to ensure its efficient working. It shall be at liberty to employ prisoners of war in such a Bureau under the conditions laid down in the Section of the present Convention dealing with work by prisoners of war.

Within the shortest possible period, each of the Parties to the conflict shall give its Bureau the information referred to in the fourth, fifth and sixth paragraphs of this Article regarding any enemy person belonging to one of the categories referred to in Article 4, who has fallen into its power. Neutral or non-belligerent Powers shall take the same action with regard to persons belonging to such categories whom they have received within their territory.

The Bureau shall immediately forward such information by the most rapid means to the Powers concerned, through the intermediary of the Protecting Powers and likewise of the Central Agency provided for in Article 123.

This information shall make it possible quickly to advise the next of kin concerned. Subject to the provisions of Article 17, the information shall include, in so far as available to the Information Bureau, in respect of each prisoner of war, his surname, first names, rank, army, regimental, personal or serial number, place and full date of birth, indication of the Power on which he depends, first name of the father and maiden name of the mother, name and address of the person to be informed and the address to which correspondence for the prisoner may be sent.

The Information Bureau shall receive from the various departments concerned information regarding transfers, releases, repatriations, escapes, admissions to hospital, and deaths, and shall transmit such information in the manner described in the third paragraph above.

Likewise, information regarding the state of health of prisoners of war who are seriously ill or seriously wounded shall be supplied regularly, every week if possible.

The Information Bureau shall also be responsible for replying to all enquiries sent to it concerning prisoners of war, including those who have died in captivity; it will make any enquiries necessary to obtain the information which is asked for if this is not in its possession.

All written communications made by the Bureau shall be authenticated by a signature or a seal.

The Information Bureau shall furthermore be charged with collecting all personal valuables, including sums in currencies other than that of the Detaining Power and documents of importance to the next of kin, left by prisoners of war who have been repatriated or released, or who have escaped or died, and shall forward the said valuables to the Powers concerned. Such articles shall be sent by the Bureau in sealed packets which shall be accompanied by statements giving clear and full particulars of the identity of the person to whom the articles belonged, and by a complete list of the contents of the parcel. Other personal effects of such prisoners of war shall be transmitted under arrangements agreed upon between the Parties to the conflict concerned.

Art 123. A Central Prisoners of War Information Agency shall be created in a neutral country. The International Committee of the Red Cross shall, if it deems necessary, propose to the Powers concerned the organization of such an Agency.

The function of the Agency shall be to collect all the information it may obtain through official or private channels respecting prisoners of war, and to transmit it as rapidly as possible to the country of origin of the prisoners of war or to the Power on which they depend. It shall receive from the Parties to the conflict all facilities for effecting such transmissions.

The High Contracting Parties, and in particular those whose nationals benefit by the services of the Central Agency, are requested to give the said Agency the financial aid it may require.

The foregoing provisions shall in no way be interpreted as restricting the humanitarian activities of the International Committee of the Red Cross, or of the relief societies provided for in Article 125.

Art 124. The national Information Bureaux and the Central Information Agency shall enjoy free postage for mail, likewise all the exemptions provided for in Article 74, and further, so far as possible, exemption from telegraphic charges or, at least, greatly reduced rates.

Art 125. Subject to the measures which the Detaining Powers may consider essential to ensure their security or to meet any other reasonable need, the representatives of religious organizations, relief societies, or any other organization assisting prisoners of war, shall receive from the said Powers, for themselves and their duly accredited agents, all necessary facilities for visiting the prisoners, for distributing relief supplies and material, from any source, intended for religious, educational or recreative purposes, and for assisting them in organizing their leisure time within the camps. Such societies or organizations may be constituted in the territory of the Detaining Power or in any other country, or they may have an international character.

The Detaining Power may limit the number of societies and organizations whose delegates are allowed to carry out their activities in its territory and under its supervision, on condition, however, that such limitation shall not hinder the effective operation of adequate relief to all prisoners of war.

The special position of the International Committee of the Red Cross in this field shall be recognized and respected at all times.

As soon as relief supplies or material intended for the above-mentioned purposes are handed over to prisoners of war, or very shortly afterwards, receipts for each consignment, signed by the prisoners' representative, shall be forwarded to the relief society or organization making the shipment. At the same time, receipts for these consignments shall be supplied by the administrative authorities responsible for guarding the prisoners.

Part VI. Execution of the Convention

Section I. General Provisions

Art 126. Representatives or delegates of the Protecting Powers shall have permission to go to all places where prisoners of war may be, particularly to places of internment, imprisonment and labour, and shall have access to all premises occupied by prisoners of war; they shall also be allowed to go to the places of departure, passage and arrival of prisoners who are being transferred. They shall be able to interview the

prisoners, and in particular the prisoners' representatives, without witnesses, either personally or through an interpreter.

Representatives and delegates of the Protecting Powers shall have full liberty to select the places they wish to visit. The duration and frequency of these visits shall not be restricted. Visits may not be prohibited except for reasons of imperative military necessity, and then only as an exceptional and temporary measure.

The Detaining Power and the Power on which the said prisoners of war depend may agree, if necessary, that compatriots of these prisoners of war be permitted to participate in the visits.

The delegates of the International Committee of the Red Cross shall enjoy the same prerogatives. The appointment of such delegates shall be submitted to the approval of the Power detaining the prisoners of war to be visited.

Art 127. The High Contracting Parties undertake, in time of peace as in time of war, to disseminate the text of the present Convention as widely as possible in their respective countries, and, in particular, to include the study thereof in their programmes of military and, if possible, civil instruction, so that the principles thereof may become known to all their armed forces and to the entire population.

Any military or other authorities, who in time of war assume responsibilities in respect of prisoners of war, must possess the text of the Convention and be specially instructed as to its provisions.

Art 128. The High Contracting Parties shall communicate to one another through the Swiss Federal Council and, during hostilities, through the Protecting Powers, the official translations of the present Convention, as well as the laws and regulations which they may adopt to ensure the application thereof.

Art 129. The High Contracting Parties undertake to enact any legislation necessary to provide effective penal sanctions for persons committing, or ordering to be committed, any of the grave breaches of the present Convention defined in the following Article.

Each High Contracting Party shall be under the obligation to search for persons alleged to have committed, or to have ordered to be committed, such grave breaches, and shall bring such persons, regardless of their nationality, before its own courts. It may also, if it prefers, and in accordance with the provisions of its own legislation, hand such persons over for trial to another High Contracting Party concerned, provided such High Contracting Party has made out a prima facie case.

Each High Contracting Party shall take measures necessary for the suppression of all acts contrary to the provisions of the present Convention other than the grave breaches defined in the following Article.

In all circumstances, the accused persons shall benefit by safeguards of proper trial and defence, which shall not be less favourable than those provided by Article 105 and those following of the present Convention.

Art 130. Grave breaches to which the preceding Article relates shall be those involving any of the following acts, if committed against persons or property protected by the Convention: wilful killing, torture or inhuman treatment, including biological experiments, wilfully causing great suffering or serious injury to body or health, compelling a prisoner of war to serve in the forces of the hostile Power, or wilfully depriving a prisoner of war of the rights of fair and regular trial prescribed in this Convention.

Art 131. No High Contracting Party shall be allowed to absolve itself or any other High Contracting Party of any liability incurred by itself or by another High Contracting Party in respect of breaches referred to in the preceding Article.

Art 132. At the request of a Party to the conflict, an enquiry shall be instituted, in a manner to be decided between the interested Parties, concerning any alleged violation of the Convention.

If agreement has not been reached concerning the procedure for the enquiry, the Parties should agree on the choice of an umpire who will decide upon the procedure to be followed.

Once the violation has been established, the Parties to the conflict shall put an end to it and shall repress it with the least possible delay.

Section II. Final Provisions

Art 133. The present Convention is established in English and in French. Both texts are equally authentic.

The Swiss Federal Council shall arrange for official translations of the Convention to be made in the Russian and Spanish languages.

Art 134. The present Convention replaces the Convention of July 27, 1929, in relations between the High Contracting Parties.

Art 135. In the relations between the Powers which are bound by the Hague Convention respecting the Laws and Customs of War on Land, whether that of July 29, 1899, or that of October 18, 1907, and which are parties to the present Convention, this last Convention shall be complementary to Chapter II of the Regulations annexed to the above-mentioned Conventions of the Hague.

Art 136. The present Convention, which bears the date of this day, is open to signature until February 12, 1950, in the name of the Powers represented at the Conference which opened at Geneva on April 21, 1949; furthermore, by Powers not represented at that Conference, but which are parties to the Convention of July 27, 1929.

Art 137. The present Convention shall be ratified as soon as possible and the ratifications shall be deposited at Berne.

A record shall be drawn up of the deposit of each instrument of ratification and certified copies of this record shall be transmitted by the Swiss Federal Council to all the Powers in whose name the Convention has been signed, or whose accession has been notified.

Art 138. The present Convention shall come into force six months after not less than two instruments of ratification have been deposited.

Thereafter, it shall come into force for each High Contracting Party six months after the deposit of the instrument of ratification.

Art 139. From the date of its coming into force, it shall be open to any Power in whose name the present Convention has not been signed, to accede to this Convention.

Art 140. Accessions shall be notified in writing to the Swiss Federal Council, and shall take effect six months after the date on which they are received.

The Swiss Federal Council shall communicate the accessions to all the Powers in whose name the Convention has been signed, or whose accession has been notified.

Art 141. The situations provided for in Articles 2 and 3 shall give immediate effect to ratifications deposited and accessions notified by the Parties to the conflict before or after the beginning of hostilities or occupation. The Swiss Federal Council shall communicate by the quickest method any ratifications or accessions received from Parties to the conflict.

Art 142. Each of the High Contracting Parties shall be at liberty to denounce the present Convention.

The denunciation shall be notified in writing to the Swiss Federal Council, which shall transmit it to the Governments of all the High Contracting Parties.

The denunciation shall take effect one year after the notification thereof has been made to the Swiss Federal Council. However, a denunciation of which notification has been made at a time when the denouncing Power is involved in a conflict shall not take effect until peace has been concluded, and until after operations connected with release and repatriation of the persons protected by the present Convention have been terminated.

The denunciation shall have effect only in respect of the denouncing Power. It shall in no way impair the obligations which the Parties to the conflict shall remain bound to fulfil by virtue of the principles of the law of nations, as they result from the usages established among civilized peoples, from the laws of humanity and the dictates of the public conscience.

Art 143. The Swiss Federal Council shall register the present Convention with the Secretariat of the United Nations. The Swiss Federal Council shall also inform the Secretariat of the United Nations of all ratifications, accessions and denunciations received by it with respect to the present Convention.

IN WITNESS WHEREOF the undersigned, having deposited their respective full powers, have signed the present Convention.

DONE at Geneva this twelfth day of August 1949, in the English and French languages. The original shall be deposited in the Archives of the Swiss Confederation. The Swiss Federal Council shall transmit certified copies thereof to each of the signatory and acceding States.

Annex I. Model Agreement Concerning Direct Repatriation and Accommodation in Neutral Countries of Wounded and Sick Prisoners of War. (see Art 110.)

I. Principles for Direct Repatriation and Accommodation in Neutral Countries

A. DIRECT REPATRIATION

The following shall be repatriated direct:

(1) All prisoners of war suffering from the following disabilities as the result of trauma: loss of a limb, paralysis, articular or other disabilities, when this disability is at least the loss of a hand or a foot, or the equivalent of the loss of a hand or a foot.

Without prejudice to a more generous interpretation, the following shall be considered as equivalent to the loss of a hand or a foot:

- (a) Loss of a hand or of all the fingers, or of the thumb and forefinger of one hand; loss of a foot, or of all the toes and metatarsals of one foot.
- (b) Ankylosis, loss of osseous tissue, cicatricial contracture preventing the functioning of one of the large articulations or of all the digital joints of one hand.
- (c) Pseudarthrosis of the long bones.
- (d) Deformities due to fracture or other injury which seriously interfere with function and weight-bearing power.

(2) All wounded prisoners of war whose condition has become chronic, to the extent that prognosis appears to exclude recovery--in spite of treatment--within one year from the date of the injury, as, for example, in case of:

- (a) Projectile in the heart, even if the Mixed Medical Commission should fail, at the time of their examination, to detect any serious disorders.
- (b) Metallic splinter in the brain or the lungs, even if the Mixed Medical Commission cannot, at the time of examination, detect any local or general reaction.
- (c) Osteomyelitis, when recovery cannot be foreseen in the course of the year following the injury, and which seems likely to result in ankylosis of a joint, or other impairments equivalent to the loss of a hand or a foot.
- (d) Perforating and suppurating injury to the large joints.
- (e) Injury to the skull, with loss or shifting of bony tissue.
- (f) Injury or burning of the face with loss of tissue and functional lesions.
- (g) Injury to the spinal cord.
- (h) Lesion of the peripheral nerves, the sequelae of which are equivalent to the loss of a hand or foot, and the cure of which requires more than a year from the date of injury, for example: injury to the brachial or lumbosacral plexus median or sciatic nerves, likewise combined injury to the radial and cubital nerves or to the lateral popliteal nerve (N. peroneus communis) and medial popliteal nerve (N. tibialis); etc. The separate injury of the radial (musculo-spiral), cubital, lateral or medial popliteal nerves shall not, however, warrant repatriation except in case of contractures or of serious neurotrophic disturbance.
- (i) Injury to the urinary system, with incapacitating results.

(3) All sick prisoners of war whose condition has become chronic to the extent that prognosis seems to exclude recovery--in, spite of treatment-- within one year from the inception of the disease, as, for example, in case of:

- (a) Progressive tuberculosis of any organ which, according to medical prognosis, cannot be cured or at least considerably improved by treatment in a neutral country.
- (b) Exudate pleurisy.
- (c) Serious diseases of the respiratory organs of non-tubercular etiology, presumed incurable, for example: serious pulmonary emphysema, with or without bronchitis; chronic asthma *; chronic bronchitis * lasting more than one year in captivity; bronchiectasis *; etc.
- (d) Serious chronic affections of the circulatory system, for example: valvular lesions and myocarditis *, which have shown signs of circulatory failure during captivity, even though the Mixed Medical Commission cannot detect any such signs at the time of examination; affections of the pericardium and the vessels (Buerger's disease, aneurisms of the large vessels); etc.

- (e) Serious chronic affections of the digestive organs, for example: gastric or duodenal ulcer; sequelae of gastric operations performed in captivity; chronic gastritis, enteritis or colitis, having lasted more than one year and seriously affecting the general condition; cirrhosis of the liver; chronic cholecystopathy *; etc.
- (f) Serious chronic affections of the genito-urinary organs, for example: chronic diseases of the kidney with consequent disorders; nephrectomy because of a tubercular kidney; chronic pyelitis or chronic cystitis; hydronephrosis or pyonephrosis; chronic grave gynaecological conditions; normal pregnancy and obstetrical disorder, where it is impossible to accommodate in a neutral country; etc.
- (g) Serious chronic diseases of the central and peripheral nervous system, for example: all obvious psychoses and psychoneuroses, such as serious hysteria, serious captivity psychoneurosis, etc., duly verified by a specialist *; any epilepsy duly verified by the camp physician *; cerebral arteriosclerosis; chronic neuritis lasting more than one year; etc.
- (h) Serious chronic diseases of the neuro-vegetative system, with considerable diminution of mental or physical fitness, noticeable loss of weight and general asthenia.
- (i) Blindness of both eyes, or of one eye when the vision of the other is less than 1 in spite of the use of corrective glasses; diminution of visual acuity in cases where it is impossible to restore it by correction to an acuity of 1/2 in at least one eye *; other grave ocular affections, for example: glaucoma, iritis, choroiditis; trachoma; etc.
- (k) Auditive disorders, such as total unilateral deafness, if the other ear does not discern the ordinary spoken word at a distance of one metre *; etc.
- (l) Serious affections of metabolism, for example: diabetes mellitus requiring insulin treatment; etc.
- (m) Serious disorders of the endocrine glands, for example: thyrotoxicosis; hypothyrosis; Addison's disease; Simmonds' cachexia; tetany; etc.
- (n) Grave and chronic disorders of the blood-forming organs.
- (o) Serious cases of chronic intoxication, for example: lead poisoning, mercury poisoning, morphinism, cocaineism, alcoholism; gas or radiation poisoning; etc.
- (p) Chronic affections of locomotion, with obvious functional disorders, for example: arthritis deformans; primary and secondary progressive chronic polyarthritis; rheumatism with serious clinical symptoms; etc.
- (q) Serious chronic skin diseases, not amenable to treatment.
- (r) Any malignant growth.
- (s) Serious chronic infectious diseases, persisting for one year after their inception, for example: malaria with decided organic impairment, amoebic or bacillary dysentery with grave disorders; tertiary visceral syphilis resistant to treatment; leprosy; etc.
- (t) Serious avitaminosis or serious inanition.

[NOTE] * The decision of the Mixed Medical Commission shall be based to a great extent on the records kept by camp physicians and surgeons of the same nationality as the prisoners of war, or on an examination by medical specialists of the Detaining Power.

B. ACCOMMODATION IN NEUTRAL COUNTRIES

The following shall be eligible for accommodation in a neutral country:

- (1) All wounded prisoners of war who are not likely to recover in captivity, but who might be cured or whose condition might be considerably improved by accommodation in a neutral country.
- (2) Prisoners of war suffering from any form of tuberculosis, of whatever organ, and whose treatment in a neutral country would be likely to lead to recovery or at least to considerable improvement, with the exception of primary tuberculosis cured before captivity.
- (3) Prisoners of war suffering from affections requiring treatment of the respiratory, circulatory, digestive, nervous, sensory, genito-urinary, cutaneous, locomotive organs, etc., if such treatment would clearly have better results in a neutral country than in captivity.
- (4) Prisoners of war who have undergone a nephrectomy in captivity for a non-tubercular renal affection; cases of osteomyelitis, on the way to recovery or latent; diabetes mellitus not requiring insulin treatment; etc.
- (5) Prisoners of war suffering from war or captivity neuroses. Cases of captivity neurosis which are not cured after three months of accommodation in a neutral country, or which after that length of time are not clearly on the way to complete cure, shall be repatriated.
- (6) All prisoners of war suffering from chronic intoxication (gases, metals, alkaloids, etc.), for whom the prospects of cure in a neutral country are especially favourable.
- (7) All women prisoners of war who are pregnant or mothers with infants and small children.

The following cases shall not be eligible for accommodation in a neutral country:

- (1) All duly verified chronic psychoses.
- (2) All organic or functional nervous affections considered to be incurable.
- (3) All contagious diseases during the period in which they are transmissible, with the exception of tuberculosis.

II. General Observations

- (1) The conditions given shall, in a general way, be interpreted and applied in as broad a spirit as possible. Neuropathic and psychopathic conditions caused by war or captivity, as well as cases of tuberculosis in all stages, shall above all benefit by such liberal interpretation. Prisoners of war who have sustained several wounds, none of which, considered by itself, justifies repatriation, shall be examined in the same spirit, with due regard for the psychic traumatism due to the number of their wounds.
- (2) All unquestionable cases giving the right to direct repatriation (amputation, total blindness or deafness, open pulmonary tuberculosis, mental disorder, malignant growth, etc.) shall be examined and repatriated as soon as possible by the camp physicians or by military medical commissions appointed by the Detaining Power.
- (3) Injuries and diseases which existed before the war and which have not become worse, as well as war injuries which have not prevented subsequent military service, shall not entitle to direct repatriation.
- (4) The provisions of this Annex shall be interpreted and applied in a similar manner in all countries party to the conflict. The Powers and authorities concerned shall grant to Mixed Medical Commissions all the facilities necessary for the accomplishment of their task.
- (5) The examples quoted under (1) above represent only typical cases. Cases which do not correspond exactly to these provisions shall be judged in the spirit of the provisions of Article 110 of the present Convention, and of the principles embodied in the present Agreement.

Annex II. Regulations Concerning Mixed Medical Commissions (see Art 112.)

Art 1. The Mixed Medical Commissions provided for in Article 112 of the Convention shall be composed of three members, two of whom shall belong to a neutral country, the third being appointed by the Detaining Power. One of the neutral members shall take the chair.

Art 2. The two neutral members shall be appointed by the International Committee of the Red Cross, acting in agreement with the Protecting Power, at the request of the Detaining Power. They may be domiciled either in their country of origin, in any other neutral country, or in the territory of the Detaining Power.

Art 3. The neutral members shall be approved by the Parties to the conflict concerned, who shall notify their approval to the International Committee of the Red Cross and to the Protecting Power. Upon such notification, the neutral members shall be considered as effectively appointed.

Art 4. Deputy members shall also be appointed in sufficient number to replace the regular members in case of need. They shall be appointed at the same time as the regular members or, at least, as soon as possible.

Art 5. If for any reason the International Committee of the Red Cross cannot arrange for the appointment of the neutral members, this shall be done by the Power protecting the interests of the prisoners of war to be examined.

Art 6. So far as possible, one of the two neutral members shall be a surgeon and the other a physician.

Art 7. The neutral members shall be entirely independent of the Parties to the conflict, which shall grant them all facilities in the accomplishment of their duties.

Art 8. By agreement with the Detaining Power, the International Committee of the Red Cross, when making the appointments provided for in Articles 2 and 4 of the present Regulations, shall settle the terms of service of the nominees.

Art 9. The Mixed Medical Commissions shall begin their work as soon as possible after the neutral members

have been approved, and in any case within a period of three months from the date of such approval.

Art 10. The Mixed Medical Commissions shall examine all the prisoners designated in Article 113 of the Convention. They shall propose repatriation, rejection, or reference to a later examination. Their decisions shall be made by a majority vote.

Art 11. The decisions made by the Mixed Medical Commissions in each specific case shall be communicated, during the month following their visit, to the Detaining Power, the Protecting Power and the International Committee of the Red Cross. The Mixed Medical Commissions shall also inform each prisoner of war examined of the decision made, and shall issue to those whose repatriation has been proposed, certificates similar to the model appended to the present Convention.

Art 12. The Detaining Power shall be required to carry out the decisions of the Mixed Medical Commissions within three months of the time when it receives due notification of such decisions.

Art 13. If there is no neutral physician in a country where the services of a Mixed Medical Commission seem to be required, and if it is for any reason impossible to appoint neutral doctors who are resident in another country, the Detaining Power, acting in agreement with the Protecting Power, shall set up a Medical Commission which shall undertake the same duties as a Mixed Medical Commission, subject to the provisions of Articles 1, 2, 3, 4, 5 and 8 of the present Regulations.

Art 14. Mixed Medical Commissions shall function permanently and shall visit each camp at intervals of not more than six months.

Annex III. Regulations Concerning Collective Relief (See Art 73.)

Art 1. Prisoners' representatives shall be allowed to distribute collective relief shipments for which they are responsible, to all prisoners of war administered by their camp, including those who are in hospitals, or in prisons or other penal establishments.

Art 2. The distribution of collective relief shipments shall be effected in accordance with the instructions of the donors and with a plan drawn up by the prisoners' representatives. The issue of medical stores shall, however, be made for preference in agreement with the senior medical officers, and the latter may, in hospitals and infirmaries, waive the said instructions, if the needs of their patients so demand. Within the limits thus defined, the distribution shall always be carried out equitably.

Art 3. The said prisoners' representatives or their assistants shall be allowed to go to the points of arrival of relief supplies near their camps, so as to enable the prisoners' representatives or their assistants to verify the quality as well as the quantity of the goods received, and to make out detailed reports thereon for the donors.

Art 4. Prisoners' representatives shall be given the facilities necessary for verifying whether the distribution of collective relief in all subdivisions and annexes of their camps has been carried out in accordance with their instructions.

Art 5. Prisoners' representatives shall be allowed to fill up, and cause to be filled up by the prisoners' representatives of labour detachments or by the senior medical officers of infirmaries and hospitals, forms or questionnaires intended for the donors, relating to collective relief supplies (distribution, requirements, quantities, etc.). Such forms and questionnaires, duly completed, shall be forwarded to the donors without delay.

Art 6. In order to secure the regular issue of collective relief to the prisoners of war in their camp, and to meet any needs that may arise from the arrival of new contingents of prisoners, prisoners' representatives shall be allowed to build up and maintain adequate reserve stocks of collective relief. For this purpose, they shall have suitable warehouses at their disposal; each warehouse shall be provided with two locks, the prisoners' representative holding the keys of one lock and the camp commander the keys of the other.

Art 7. When collective consignments of clothing are available, each prisoner of war shall retain in his possession at least one complete set of clothes. If a prisoner has more than one set of clothes, the prisoners' representative shall be permitted to withdraw excess clothing from those with the largest number of sets, or particular articles in excess of one, if this is necessary in order to supply prisoners who are less well provided. He shall not, however, withdraw second sets of underclothing, socks or footwear, unless this is the only means of providing for prisoners of war with none.

Art 8. The High Contracting Parties, and the Detaining Powers in particular, shall authorize, as far as possible and subject to the regulations governing the supply of the population, all purchases of goods made in their

territories for the distribution of collective relief to prisoners of war. They shall similarly facilitate the transfer of funds and other financial measures of a technical or administrative nature taken for the purpose of making such purchases.

Art 9. The foregoing provisions shall not constitute an obstacle to the right of prisoners of war to receive collective relief before their arrival in a camp or in the course of transfer, nor to the possibility of representatives of the Protecting Power, the International Committee of the Red Cross, or any other body giving assistance to prisoners which may be responsible for the forwarding of such supplies, ensuring the distribution thereof to the addressees by any other means that they may deem useful.

Annex IV. (A) Identity Card(See Art 4.)

ANNEX IV
A. IDENTITY CARD
(see Article 4)

<p>NOTICE</p> <p>This identity card is issued to persons who accompany the Armed Forces of a belligerent party. It is not part of their military equipment and must be carried at all times by the person to whom it is issued. If the card is taken from a prisoner, the official seal must be broken and the card handed to the Detaining Authority to assist in his identification.</p>		<p>Fingerprints (optional) (Left forefinger) (Right forefinger)</p>	<p>Any other mark of identification</p>
<p>Official seal imprint</p>	<p>Blood type</p> <p>Religion</p>		
<p>Hair</p>	<p>Eyes</p>	<p>Weight</p>	<p>Height</p>
<p>(Name of the country and military authority issuing this card)</p> <p>IDENTITY CARD</p> <p>FOR A PERSON WHO ACCOMPANIES THE ARMED FORCES</p> <p>Name</p> <p>First names</p> <p>Date and place of birth</p> <p>Accompanies the Armed Forces as</p> <p>Date of issue</p> <p>Signature of bearer</p>			

Remarks. — This card should be made out for preference in two or three languages, one of which is in international use. Actual size of the card: 13 by 10 centimetres. It should be folded along the dotted line.

Annex IV. (B) Captured Card(See Art 70.)

ANNEX IV
B. CAPTURE CARD
(see Article 70)

1. Front

PRISONER OF WAR MAIL		Postage free
CAPTURE CARD FOR PRISONER OF WAR		
<p style="text-align: center;">IMPORTANT</p> <p>This card must be completed by each prisoner immediately after being taken prisoner and each time his address is changed (by reason of transfer to a hospital or to another camp).</p> <p>This card is distinct from the special card which each prisoner is allowed to send to his relatives.</p>	<p>CENTRAL PRISONERS OF WAR AGENCY</p> <p>INTERNATIONAL COMMITTEE OF THE RED CROSS</p> <p>GENEVA SWITZERLAND</p>	

2. Reverse side

Write legibly and in block letters		1. Power on which the prisoner depends	
2. Name	3. First names (in full)	4. First name of father	
5. Date of birth	6. Place of birth		
7. Rank	8. Service number		
9. Address of next of kin			
*10. Taken prisoner on: (or) Coming from (Camp No., hospital, etc.)			
*11. (a) Good health—(b) Not wounded—(c) Recovered—(d) Convalescent—(e) Sick—(f) Slightly wounded—(g) Seriously wounded.			
12. My present address is: Prisoner No.			
Name of camp			
13. Date		14. Signature	
* Strike out what is not applicable—Do not add any remarks—See explanations overleaf.			

Remarks.—This form should be made out in two or three languages, particularly in the prisoner's own language and in that of the Detaining Power. Actual size: 15 by 10.3 centimetres.

Annex IV. (C) Correspondence Card and Letter (See Art 71.)

ANNEX IV
C. CORRESPONDENCE CARD AND LETTER

(see Article 71)

1. Front

I. CARD.

PRISONER OF WAR MAIL		Postage free
POST CARD		
To _____		
Sender: Name and first names _____ Place and date of birth _____ Prisoner of War No. _____ Name of camp _____ Country where posted _____	_____ Place of Destination _____ Street _____ Country _____ Province or Department _____	

2. Reverse side.

NAME OF CAMP _____	Date _____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
Write on the dotted lines only and as legibly as possible.	

Remarks.—This form should be made out in two or three languages, particularly in the prisoner's own language and in that of the Detaining Power. Actual size of form: 15 by 10 centimetres.

ANNEX IV
C. CORRESPONDENCE CARD AND LETTER
(see Article 71)

2. LETTER

PRISONER OF WAR MAIL

Postage free

To

Place

Street

Country

Department or Province

.....

.....

Country where posted

Name of camp

Prisoner of War No.

Date and place of birth

Name and first names

Sender:

Remarks.—This form should be made out in two or three languages, particularly in the prisoner's own language and in that of the Detaining Power. It should be folded along the dotted line, the tab being inserted in the slit (marked by a line of asterisks); it then has the appearance of an envelope. Overleaf, it is lined like the postcard above (Annex IV C); this space can contain about 250 words which the prisoner is free to write. Actual size of the folded form: 29 by 15 centimetres.

Annex IV. (D) Notification of Death (See Art 120.)

ANNEX IV
D. NOTIFICATION OF DEATH
(see Article 280)

(Title of responsible authority)	NOTIFICATION OF DEATH
	Power on which the prisoner depended
Name and first names	
First name of father	
Place and date of birth	
Place and date of death	
Rank and service number (as given on identity disc)	
Address of next of kin	
Where and when taken prisoner	
Cause and circumstances of death	
Place of burial	
Is the grave marked and can it be found later by the relatives?	
Are the personal effects of the deceased in the keeping of the Detaining Power or are they being forwarded together with this notification?	
If forwarded, through what agency?	
Can the person who cared for the deceased during sickness or during his last moments (doctor, nurse, minister of religion, fellow prisoner) give here or on an attached sheet a short account of the circumstances of the death and burial?	
(Date, seal and signature of responsible authority.)	Signature and address of two witnesses

Remarks.—This form should be made out in two or three languages, particularly in the prisoner's own language and in that of the Detaining Power. Actual size of the form: 21 by 30 centimetres.

Annex IV. (E) Repatriation Certificate (See AnnexII, Art 11.)

ANNEX IV

E. REPATRIATION CERTIFICATE

(see Annex II, Article 11)

REPATRIATION CERTIFICATE

Date :
 Camp :
 Hospital :
 Surname :
 First names :
 Date of birth :
 Rank :
 Army number :
 P. W. number :
 Injury-Disease :
 Decision of the Commission :

Chairman of the
 Mixed Medical Commission :

A = direct repatriation
 B = accommodation in a neutral country
 NC = re-examination by next Commission

Annex V. Model Regulations Concerning Payments Sent by Prisoners to their Own Country (See Art 63.)

(1) The notification referred to in the third paragraph of Article 63 will show:

- (a) number as specified in Article 17, rank, surname and first names of the prisoner of war who is the payer;
 (b) the name and address of the payee in the country of origin;
 (c) the amount to be so paid in the currency of the country in which he is detained.

(2) The notification will be signed by the prisoner of war, or his witnessed mark made upon it if he cannot write, and shall be countersigned by the prisoners' representative.

(3) The camp commander will add to this notification a certificate that the prisoner of war concerned has a credit balance of not less than the amount registered as payable.

(4) The notification may be made up in lists, each sheet of such lists being witnessed by the prisoners' representative and certified by the camp commander.

I N T E R N A T I O N A L H U M A N I T A R I A N L A W

International Committee of the Red Cross

APPENDICE

VI

Document printed from the ICRC web site on the 08.01.2008

Convention (IV) relative to the Protection of Civilian Persons in Time of War. Geneva, 12 August 1949.

Introduction

General title	Diplomatic Conference of Geneva of 1949.
Forum of adoption	Diplomatic Conference of Geneva of 1949
In force	yes
Entry into force	21.10.1950

The Geneva Conventions which were adopted before 1949 were concerned with combatants only, not with civilians. Some provisions concerning the protection of populations against the consequences of war and their protection in occupied territories are contained in the Regulations concerning the laws and customs of war on land, annexed to the Hague Conventions of 1899 and 1907. During World War I the Hague provisions proved to be insufficient in view of the dangers originating from air warfare and of the problems relating to the treatment of civilians in enemy territory and in occupied territories. The International Conferences of the Red Cross of the 1920's took the first steps towards laying down supplementary rules for the protection of civilians in time of war. The 1929 Diplomatic Conference, which revised the Geneva Convention on wounded and sick and drew up the Convention on the treatment of prisoners of war, limited itself to recommending that "studies should be made with a view to concluding a convention on the protection of civilians in enemy territory and in enemy occupied territory." A draft convention containing forty articles prepared by the International Committee of the Red Cross was approved by the International Conference of the Red Cross in Tokyo in 1934 and is generally referred to as the "Tokyo Draft". It was to be submitted to a diplomatic conference planned for 1940, but this was postponed on account of the war. 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 contains a rather short part concerning the general protection of populations against certain consequences of war (Part II), leaving aside the problem of the limitation of the use of weapons. The great bulk of the Convention (Part III - Articles 27-141) puts forth the regulations governing the status and treatment of protected persons; these provisions distinguish between the situation of foreigners on the territory of one of the parties to the conflict and that of civilians in occupied territory. The Convention does not invalidate the provisions of the Hague Regulations of 1907 on the same subjects but is supplementary to them (see Article 154 of the Convention).

Meetings of forum	21.04.1949 - 12.08.1949, Geneva
Date of adoption	12.08.1949
Depositary	Switzerland
Number of articles	159 + 3 annexes
Authentic text	English; French

INTERNATIONAL HUMANITARIAN LAW

International Committee of the Red Cross

Document printed from the ICRC web site on the 08.01.2008

Convention (IV) relative to the Protection of Civilian Persons in Time of War. Geneva, 12 August 1949.

Full text

Preamble

The undersigned Plenipotentiaries of the Governments represented at the Diplomatic Conference held at Geneva from April 21 to August 12, 1949, for the purpose of establishing a Convention for the Protection of Civilian Persons in Time of War, have agreed as follows:

Part I. General Provisions

Article 1. The High Contracting Parties undertake to respect and to ensure respect for the present Convention in all circumstances.

Art. 2. In addition to the provisions which shall be implemented in peace-time, the present Convention shall apply to all cases of declared war or of any other armed conflict which may arise between two or more of the High Contracting Parties, even if the state of war is not recognized by one of them.

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

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

Art. 3. In the case of armed conflict not of an international character occurring in the territory of one of the High Contracting Parties, each Party to the conflict shall be bound to apply, as a minimum, the following provisions:

(1) Persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed hors de combat by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely, without any adverse distinction founded on race, colour, religion or faith, sex, birth or wealth, or any other similar criteria.

To this end the following acts are and shall remain prohibited at any time and in any place whatsoever with respect to the above-mentioned persons:

- (a) violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture;
- (b) taking of hostages;
- (c) outrages upon personal dignity, in particular humiliating and degrading treatment;
- (d) 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.

(2) The wounded and sick shall be collected and cared for.

An impartial humanitarian body, such as the International Committee of the Red Cross, may offer its services to the Parties to the conflict.

The Parties to the conflict should further endeavour to bring into force, by means of special agreements, all or part of the other provisions of the present Convention.

The application of the preceding provisions shall not affect the legal status of the Parties to the conflict.

Art. 4. Persons protected by the Convention are those who, at a given moment and in any manner whatsoever, find themselves, in case of a conflict or occupation, in the hands of a Party to the conflict or Occupying Power of which they are not nationals.

Nationals of a State which is not bound by the Convention are not protected by it. Nationals of a neutral State who find themselves in the territory of a belligerent State, and nationals of a co-belligerent State, shall not be

regarded as protected persons while the State of which they are nationals has normal diplomatic representation in the State in whose hands they are.

The provisions of Part II are, however, wider in application, as defined in Article 13.

Persons protected by the Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field of 12 August 1949, or by the Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea of 12 August 1949, or by the Geneva Convention relative to the Treatment of Prisoners of War of 12 August 1949, shall not be considered as protected persons within the meaning of the present Convention.

Art. 5 Where in the territory of a Party to the conflict, the latter is satisfied that an individual protected person is definitely suspected of or engaged in activities hostile to the security of the State, such individual person shall not be entitled to claim such rights and privileges under the present Convention as would, if exercised in the favour of such individual person, be prejudicial to the security of such State.

Where in occupied territory an individual protected person is detained as a spy or saboteur, or as a person under definite suspicion of activity hostile to the security of the Occupying Power, such person shall, in those cases where absolute military security so requires, be regarded as having forfeited rights of communication under the present Convention.

In each case, such persons shall nevertheless be treated with humanity and, in case of trial, shall not be deprived of the rights of fair and regular trial prescribed by the present Convention. They shall also be granted the full rights and privileges of a protected person under the present Convention at the earliest date consistent with the security of the State or Occupying Power, as the case may be.

Art. 6. The present Convention shall apply from the outset of any conflict or occupation mentioned in Article 2.

In the territory of Parties to the conflict, the application of the present Convention shall cease on the general close of military operations.

In the case of occupied territory, the application of the present Convention shall cease one year after the general close of military operations; however, the Occupying Power shall be bound, for the duration of the occupation, to the extent that such Power exercises the functions of government in such territory, by the provisions of the following Articles of the present Convention: 1 to 12, 27, 29 to 34, 47, 49, 51, 52, 53, 59, 61 to 77, 143.

Protected persons whose release, repatriation or re-establishment may take place after such dates shall meanwhile continue to benefit by the present Convention.

Art. 7. In addition to the agreements expressly provided for in Articles 11, 14, 15, 17, 36, 108, 109, 132, 133 and 149, the High Contracting Parties may conclude other special agreements for all matters concerning which they may deem it suitable to make separate provision. No special agreement shall adversely affect the situation of protected persons, as defined by the present Convention, not restrict the rights which it confers upon them.

Protected persons shall continue to have the benefit of such agreements as long as the Convention is applicable to them, except where express provisions to the contrary are contained in the aforesaid or in subsequent agreements, or where more favourable measures have been taken with regard to them by one or other of the Parties to the conflict.

Art. 8. Protected persons may in no circumstances renounce in part or in entirety the rights secured to them by the present Convention, and by the special agreements referred to in the foregoing Article, if such there be.

Art. 9. The present Convention shall be applied with the cooperation and under the scrutiny of the Protecting Powers whose duty it is to safeguard the interests of the Parties to the conflict. For this purpose, the Protecting Powers may appoint, apart from their diplomatic or consular staff, delegates from amongst their own nationals or the nationals of other neutral Powers. The said delegates shall be subject to the approval of the Power with which they are to carry out their duties.

The Parties to the conflict shall facilitate to the greatest extent possible the task of the representatives or delegates of the Protecting Powers.

The representatives or delegates of the Protecting Powers shall not in any case exceed their mission under the present Convention.

They shall, in particular, take account of the imperative necessities of security of the State wherein they carry out their duties.

Art. 10. The provisions of the present Convention constitute no obstacle to the humanitarian activities which the International Committee of the Red Cross or any other impartial humanitarian organization may, subject to the consent of the Parties to the conflict concerned, undertake for the protection of civilian persons and for their relief.

Art. 11. The High Contracting Parties may at any time agree to entrust to an international organization which offers all guarantees of impartiality and efficacy the duties incumbent on the Protecting Powers by virtue of the present Convention.

When persons protected by the present Convention do not benefit or cease to benefit, no matter for what reason, by the activities of a Protecting Power or of an organization provided for in the first paragraph above, the Detaining Power shall request a neutral State, or such an organization, to undertake the functions performed under the present Convention by a Protecting Power designated by the Parties to a conflict.

If protection cannot be arranged accordingly, the Detaining Power shall request or shall accept, subject to the provisions of this Article, the offer of the services of a humanitarian organization, such as the International Committee of the Red Cross, to assume the humanitarian functions performed by Protecting Powers under the present Convention.

Any neutral Power or any organization invited by the Power concerned or offering itself for these purposes, shall be required to act with a sense of responsibility towards the Party to the conflict on which persons protected by the present Convention depend, and shall be required to furnish sufficient assurances that it is in a position to undertake the appropriate functions and to discharge them impartially.

No derogation from the preceding provisions shall be made by special agreements between Powers one of which is restricted, even temporarily, in its freedom to negotiate with the other Power or its allies by reason of military events, more particularly where the whole, or a substantial part, of the territory of the said Power is occupied.

Whenever in the present Convention mention is made of a Protecting Power, such mention applies to substitute organizations in the sense of the present Article.

The provisions of this Article shall extend and be adapted to cases of nationals of a neutral State who are in occupied territory or who find themselves in the territory of a belligerent State in which the State of which they are nationals has not normal diplomatic representation.

Art. 12. In cases where they deem it advisable in the interest of protected persons, particularly in cases of disagreement between the Parties to the conflict as to the application or interpretation of the provisions of the present Convention, the Protecting Powers shall lend their good offices with a view to settling the disagreement.

For this purpose, each of the Protecting Powers may, either at the invitation of one Party or on its own initiative, propose to the Parties to the conflict a meeting of their representatives, and in particular of the authorities responsible for protected persons, possibly on neutral territory suitably chosen. The Parties to the conflict shall be bound to give effect to the proposals made to them for this purpose. The Protecting Powers may, if necessary, propose for approval by the Parties to the conflict a person belonging to a neutral Power, or delegated by the International Committee of the Red Cross, who shall be invited to take part in such a meeting.

Part II. General Protection of Populations Against Certain Consequences of War

Art. 13. The provisions of Part II cover the whole of the populations of the countries in conflict, without any adverse distinction based, in particular, on race, nationality, religion or political opinion, and are intended to alleviate the sufferings caused by war.

Art. 14. In time of peace, the High Contracting Parties and, after the outbreak of hostilities, the Parties thereto, may establish in their own territory and, if the need arises, in occupied areas, hospital and safety zones and localities so organized as to protect from the effects of war, wounded, sick and aged persons, children under fifteen, expectant mothers and mothers of children under seven.

Upon the outbreak and during the course of hostilities, the Parties concerned may conclude agreements on

mutual recognition of the zones and localities they have created. They may for this purpose implement the provisions of the Draft Agreement annexed to the present Convention, with such amendments as they may consider necessary.

The Protecting Powers and the International Committee of the Red Cross are invited to lend their good offices in order to facilitate the institution and recognition of these hospital and safety zones and localities.

Art. 15. Any Party to the conflict may, either direct or through a neutral State or some humanitarian organization, propose to the adverse Party to establish, in the regions where fighting is taking place, neutralized zones intended to shelter from the effects of war the following persons, without distinction:

- (a) wounded and sick combatants or non-combatants;
- (b) civilian persons who take no part in hostilities, and who, while they reside in the zones, perform no work of a military character.

When the Parties concerned have agreed upon the geographical position, administration, food supply and supervision of the proposed neutralized zone, a written agreement shall be concluded and signed by the representatives of the Parties to the conflict. The agreement shall fix the beginning and the duration of the neutralization of the zone.

Art. 16. The wounded and sick, as well as the infirm, and expectant mothers, shall be the object of particular protection and respect.

As far as military considerations allow, each Party to the conflict shall facilitate the steps taken to search for the killed and wounded, to assist the shipwrecked and other persons exposed to grave danger, and to protect them against pillage and ill-treatment.

Art. 17. The Parties to the conflict shall endeavour to conclude local agreements for the removal from besieged or encircled areas, of wounded, sick, infirm, and aged persons, children and maternity cases, and for the passage of ministers of all religions, medical personnel and medical equipment on their way to such areas.

Art. 18. Civilian hospitals organized to give care to the wounded and sick, the infirm and maternity cases, may in no circumstances be the object of attack but shall at all times be respected and protected by the Parties to the conflict.

States which are Parties to a conflict shall provide all civilian hospitals with certificates showing that they are civilian hospitals and that the buildings which they occupy are not used for any purpose which would deprive these hospitals of protection in accordance with Article 19.

Civilian hospitals shall be marked by means of the emblem provided for in Article 38 of the Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field of 12 August 1949, but only if so authorized by the State.

The Parties to the conflict shall, in so far as military considerations permit, take the necessary steps to make the distinctive emblems indicating civilian hospitals clearly visible to the enemy land, air and naval forces in order to obviate the possibility of any hostile action.

In view of the dangers to which hospitals may be exposed by being close to military objectives, it is recommended that such hospitals be situated as far as possible from such objectives.

Art. 19. The protection to which civilian hospitals are entitled shall not cease unless they are used to commit, outside their humanitarian duties, acts harmful to the enemy. Protection may, however, cease only after due warning has been given, naming, in all appropriate cases, a reasonable time limit and after such warning has remained unheeded.

The fact that sick or wounded members of the armed forces are nursed in these hospitals, or the presence of small arms and ammunition taken from such combatants and not yet been handed to the proper service, shall not be considered to be acts harmful to the enemy.

Art. 20. Persons regularly and solely engaged in the operation and administration of civilian hospitals, including the personnel engaged in the search for, removal and transporting of and caring for wounded and sick civilians, the infirm and maternity cases shall be respected and protected.

In occupied territory and in zones of military operations, the above personnel shall be recognizable by means

of an identity card certifying their status, bearing the photograph of the holder and embossed with the stamp of the responsible authority, and also by means of a stamped, water-resistant armband which they shall wear on the left arm while carrying out their duties. This armband shall be issued by the State and shall bear the emblem provided for in Article 38 of the Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field of 12 August 1949.

Other personnel who are engaged in the operation and administration of civilian hospitals shall be entitled to respect and protection and to wear the armband, as provided in and under the conditions prescribed in this Article, while they are employed on such duties. The identity card shall state the duties on which they are employed.

The management of each hospital shall at all times hold at the disposal of the competent national or occupying authorities an up-to-date list of such personnel.

Art. 21. Convoys of vehicles or hospital trains on land or specially provided vessels on sea, conveying wounded and sick civilians, the infirm and maternity cases, shall be respected and protected in the same manner as the hospitals provided for in Article 18, and shall be marked, with the consent of the State, by the display of the distinctive emblem provided for in Article 38 of the Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field of 12 August 1949.

Art.22. Aircraft exclusively employed for the removal of wounded and sick civilians, the infirm and maternity cases or for the transport of medical personnel and equipment, shall not be attacked, but shall be respected while flying at heights, times and on routes specifically agreed upon between all the Parties to the conflict concerned.

They may be marked with the distinctive emblem provided for in Article 38 of the Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field of 12 August 1949.

Unless agreed otherwise, flights over enemy or enemy occupied territory are prohibited.

Such aircraft shall obey every summons to land. In the event of a landing thus imposed, the aircraft with its occupants may continue its flight after examination, if any.

Art. 23. Each High Contracting Party shall allow the free passage of all consignments of medical and hospital stores and objects necessary for religious worship intended only for civilians of another High Contracting Party, even if the latter is its adversary. It shall likewise permit the free passage of all consignments of essential foodstuffs, clothing and tonics intended for children under fifteen, expectant mothers and maternity cases.

The obligation of a High Contracting Party to allow the free passage of the consignments indicated in the preceding paragraph is subject to the condition that this Party is satisfied that there are no serious reasons for fearing:

- (a) that the consignments may be diverted from their destination,
- (b) that the control may not be effective, or
- (c) that a definite advantage may accrue to the military efforts or economy of the enemy through the substitution of the above-mentioned consignments for goods which would otherwise be provided or produced by the enemy or through the release of such material, services or facilities as would otherwise be required for the production of such goods.

The Power which allows the passage of the consignments indicated in the first paragraph of this Article may make such permission conditional on the distribution to the persons benefited thereby being made under the local supervision of the Protecting Powers.

Such consignments shall be forwarded as rapidly as possible, and the Power which permits their free passage shall have the right to prescribe the technical arrangements under which such passage is allowed.

Art.24. The Parties to the conflict shall take the necessary measures to ensure that children under fifteen, who are orphaned or are separated from their families as a result of the war, are not left to their own resources, and that their maintenance, the exercise of their religion and their education are facilitated in all circumstances. Their education shall, as far as possible, be entrusted to persons of a similar cultural tradition.

The Parties to the conflict shall facilitate the reception of such children in a neutral country for the duration of the conflict with the consent of the Protecting Power, if any, and under due safeguards for the observance of the principles stated in the first paragraph.

They shall, furthermore, endeavour to arrange for all children under twelve to be identified by the wearing of identity discs, or by some other means.

Art. 25. All persons in the territory of a Party to the conflict, or in a territory occupied by it, shall be enabled to give news of a strictly personal nature to members of their families, wherever they may be, and to receive news from them. This correspondence shall be forwarded speedily and without undue delay.

If, as a result of circumstances, it becomes difficult or impossible to exchange family correspondence by the ordinary post, the Parties to the conflict concerned shall apply to a neutral intermediary, such as the Central Agency provided for in Article 140, and shall decide in consultation with it how to ensure the fulfilment of their obligations under the best possible conditions, in particular with the cooperation of the National Red Cross (Red Crescent, Red Lion and Sun) Societies.

If the Parties to the conflict deem it necessary to restrict family correspondence, such restrictions shall be confined to the compulsory use of standard forms containing twenty-five freely chosen words, and to the limitation of the number of these forms despatched to one each month.

Art. 26. Each Party to the conflict shall facilitate enquiries made by members of families dispersed owing to the war, with the object of renewing contact with one another and of meeting, if possible. It shall encourage, in particular, the work of organizations engaged on this task provided they are acceptable to it and conform to its security regulations.

Part III. Status and Treatment of Protected Persons

Section I. Provisions common to the territories of the parties to the conflict and to occupied territories

Art. 27. Protected persons are entitled, in all circumstances, to respect for their persons, their honour, their family rights, their religious convictions and practices, and their manners and customs. They shall at all times be humanely treated, and shall be protected especially against all acts of violence or threats thereof and against insults and public curiosity.

Women shall be especially protected against any attack on their honour, in particular against rape, enforced prostitution, or any form of indecent assault.

Without prejudice to the provisions relating to their state of health, age and sex, all protected persons shall be treated with the same consideration by the Party to the conflict in whose power they are, without any adverse distinction based, in particular, on race, religion or political opinion.

However, the Parties to the conflict may take such measures of control and security in regard to protected persons as may be necessary as a result of the war.

Art. 28. The presence of a protected person may not be used to render certain points or areas immune from military operations.

Art. 29. The Party to the conflict in whose hands protected persons may be, is responsible for the treatment accorded to them by its agents, irrespective of any individual responsibility which may be incurred.

Art. 30. Protected persons shall have every facility for making application to the Protecting Powers, the International Committee of the Red Cross, the National Red Cross (Red Crescent, Red Lion and Sun) Society of the country where they may be, as well as to any organization that might assist them.

These several organizations shall be granted all facilities for that purpose by the authorities, within the bounds set by military or security considerations.

Apart from the visits of the delegates of the Protecting Powers and of the International Committee of the Red Cross, provided for by Article 143, the Detaining or Occupying Powers shall facilitate, as much as possible, visits to protected persons by the representatives of other organizations whose object is to give spiritual aid or material relief to such persons.

Art. 31. No physical or moral coercion shall be exercised against protected persons, in particular to obtain information from them or from third parties.

Art. 32. The High Contracting Parties specifically agree that each of them is prohibited from taking any measure of such a character as to cause the physical suffering or extermination of protected persons in their

hands. This prohibition applies not only to murder, torture, corporal punishments, mutilation and medical or scientific experiments not necessitated by the medical treatment of a protected person, but also to any other measures of brutality whether applied by civilian or military agents.

Art. 33. No protected person may be punished for an offence he or she has not personally committed. Collective penalties and likewise all measures of intimidation or of terrorism are prohibited.

Pillage is prohibited.

Reprisals against protected persons and their property are prohibited.

Art. 34. The taking of hostages is prohibited.

Section II. Aliens in the territory of a party to the conflict

Art. 35. All protected persons who may desire to leave the territory at the outset of, or during a conflict, shall be entitled to do so, unless their departure is contrary to the national interests of the State. The applications of such persons to leave shall be decided in accordance with regularly established procedures and the decision shall be taken as rapidly as possible. Those persons permitted to leave may provide themselves with the necessary funds for their journey and take with them a reasonable amount of their effects and articles of personal use.

If any such person is refused permission to leave the territory, he shall be entitled to have refusal reconsidered, as soon as possible by an appropriate court or administrative board designated by the Detaining Power for that purpose.

Upon request, representatives of the Protecting Power shall, unless reasons of security prevent it, or the persons concerned object, be furnished with the reasons for refusal of any request for permission to leave the territory and be given, as expeditiously as possible, the names of all persons who have been denied permission to leave.

Art. 36. Departures permitted under the foregoing Article shall be carried out in satisfactory conditions as regards safety, hygiene, sanitation and food. All costs in connection therewith, from the point of exit in the territory of the Detaining Power, shall be borne by the country of destination, or, in the case of accommodation in a neutral country, by the Power whose nationals are benefited. The practical details of such movements may, if necessary, be settled by special agreements between the Powers concerned.

The foregoing shall not prejudice such special agreements as may be concluded between Parties to the conflict concerning the exchange and repatriation of their nationals in enemy hands.

Art. 37. Protected persons who are confined pending proceedings or serving a sentence involving loss of liberty, shall during their confinement be humanely treated.

As soon as they are released, they may ask to leave the territory in conformity with the foregoing Articles.

Art. 38. With the exception of special measures authorized by the present Convention, in particularly by Article 27 and 41 thereof, the situation of protected persons shall continue to be regulated, in principle, by the provisions concerning aliens in time of peace. In any case, the following rights shall be granted to them:

- (1) they shall be enabled to receive the individual or collective relief that may be sent to them.
- (2) they shall, if their state of health so requires, receive medical attention and hospital treatment to the same extent as the nationals of the State concerned.
- (3) they shall be allowed to practise their religion and to receive spiritual assistance from ministers of their faith.
- (4) if they reside in an area particularly exposed to the dangers of war, they shall be authorized to move from that area to the same extent as the nationals of the State concerned.
- (5) children under fifteen years, pregnant women and mothers of children under seven years shall benefit by any preferential treatment to the same extent as the nationals of the State concerned.

Art. 39. Protected persons who, as a result of the war, have lost their gainful employment, shall be granted the opportunity to find paid employment. That opportunity shall, subject to security considerations and to the provisions of Article 40, be equal to that enjoyed by the nationals of the Power in whose territory they are.

Where a Party to the conflict applies to a protected person methods of control which result in his being unable

to support himself, and especially if such a person is prevented for reasons of security from finding paid employment on reasonable conditions, the said Party shall ensure his support and that of his dependents.

Protected persons may in any case receive allowances from their home country, the Protecting Power, or the relief societies referred to in Article 30.

Art. 40. Protected persons may be compelled to work only to the same extent as nationals of the Party to the conflict in whose territory they are.

If protected persons are of enemy nationality, they may only be compelled to do work which is normally necessary to ensure the feeding, sheltering, clothing, transport and health of human beings and which is not directly related to the conduct of military operations.

In the cases mentioned in the two preceding paragraphs, protected persons compelled to work shall have the benefit of the same working conditions and of the same safeguards as national workers in particular as regards wages, hours of labour, clothing and equipment, previous training and compensation for occupational accidents and diseases.

If the above provisions are infringed, protected persons shall be allowed to exercise their right of complaint in accordance with Article 30.

Art. 41. Should the Power, in whose hands protected persons may be, consider the measures of control mentioned in the present Convention to be inadequate, it may not have recourse to any other measure of control more severe than that of assigned residence or internment, in accordance with the provisions of Articles 42 and 43.

In applying the provisions of Article 39, second paragraph, to the cases of persons required to leave their usual places of residence by virtue of a decision placing them in assigned residence elsewhere, the Detaining Power shall be guided as closely as possible by the standards of welfare set forth in Part III, Section IV of this Convention.

Art. 42. The internment or placing in assigned residence of protected persons may be ordered only if the security of the Detaining Power makes it absolutely necessary.

If any person, acting through the representatives of the Protecting Power, voluntarily demands internment, and if his situation renders this step necessary, he shall be interned by the Power in whose hands he may be.

Art. 43. Any protected person who has been interned or placed in assigned residence shall be entitled to have such action reconsidered as soon as possible by an appropriate court or administrative board designated by the Detaining Power for that purpose. If the internment or placing in assigned residence is maintained, the court or administrative board shall periodically, and at least twice yearly, give consideration to his or her case, with a view to the favourable amendment of the initial decision, if circumstances permit.

Unless the protected persons concerned object, the Detaining Power shall, as rapidly as possible, give the Protecting Power the names of any protected persons who have been interned or subjected to assigned residence, or who have been released from internment or assigned residence. The decisions of the courts or boards mentioned in the first paragraph of the present Article shall also, subject to the same conditions, be notified as rapidly as possible to the Protecting Power.

Art. 44. In applying the measures of control mentioned in the present Convention, the Detaining Power shall not treat as enemy aliens exclusively on the basis of their nationality de jure of an enemy State, refugees who do not, in fact, enjoy the protection of any government.

Art. 45. Protected persons shall not be transferred to a Power which is not a party to the Convention.

This provision shall in no way constitute an obstacle to the repatriation of protected persons, or to their return to their country of residence after the cessation of hostilities.

Protected persons may be transferred by the Detaining Power only to a Power which is a party to the present Convention and after the Detaining Power has satisfied itself of the willingness and ability of such transferee Power to apply the present Convention. If protected persons are transferred under such circumstances, responsibility for the application of the present Convention rests on the Power accepting them, while they are in its custody. Nevertheless, if that Power fails to carry out the provisions of the present Convention in any important respect, the Power by which the protected persons were transferred shall, upon being so notified by the Protecting Power, take effective measures to correct the situation or shall request the return of the protected persons. Such request must be complied with.

In no circumstances shall a protected person be transferred to a country where he or she may have reason to fear persecution for his or her political opinions or religious beliefs.

The provisions of this Article do not constitute an obstacle to the extradition, in pursuance of extradition treaties concluded before the outbreak of hostilities, of protected persons accused of offences against ordinary criminal law.

Art. 46. In so far as they have not been previously withdrawn, restrictive measures taken regarding protected persons shall be cancelled as soon as possible after the close of hostilities.

Restrictive measures affecting their property shall be cancelled, in accordance with the law of the Detaining Power, as soon as possible after the close of hostilities.

Section III. Occupied territories

Art. 47. Protected persons who are in occupied territory shall not be deprived, in any case or in any manner whatsoever, of the benefits of the present Convention by any change introduced, as the result of the occupation of a territory, into the institutions or government of the said territory, nor by any agreement concluded between the authorities of the occupied territories and the Occupying Power, nor by any annexation by the latter of the whole or part of the occupied territory.

Art. 48. Protected persons who are not nationals of the Power whose territory is occupied, may avail themselves of the right to leave the territory subject to the provisions of Article 35, and decisions thereon shall be taken according to the procedure which the Occupying Power shall establish in accordance with the said Article.

Art. 49. Individual or mass forcible transfers, as well as deportations of protected persons from occupied territory to the territory of the Occupying Power or to that of any other country, occupied or not, are prohibited, regardless of their motive.

Nevertheless, the Occupying Power may undertake total or partial evacuation of a given area if the security of the population or imperative military reasons so demand. Such evacuations may not involve the displacement of protected persons outside the bounds of the occupied territory except when for material reasons it is impossible to avoid such displacement. Persons thus evacuated shall be transferred back to their homes as soon as hostilities in the area in question have ceased.

The Occupying Power undertaking such transfers or evacuations shall ensure, to the greatest practicable extent, that proper accommodation is provided to receive the protected persons, that the removals are effected in satisfactory conditions of hygiene, health, safety and nutrition, and that members of the same family are not separated.

The Protecting Power shall be informed of any transfers and evacuations as soon as they have taken place.

The Occupying Power shall not detain protected persons in an area particularly exposed to the dangers of war unless the security of the population or imperative military reasons so demand.

The Occupying Power shall not deport or transfer parts of its own civilian population into the territory it occupies.

Art. 50. The Occupying Power shall, with the cooperation of the national and local authorities, facilitate the proper working of all institutions devoted to the care and education of children.

The Occupying Power shall take all necessary steps to facilitate the identification of children and the registration of their parentage. It may not, in any case, change their personal status, nor enlist them in formations or organizations subordinate to it.

Should the local institutions be inadequate for the purpose, the Occupying Power shall make arrangements for the maintenance and education, if possible by persons of their own nationality, language and religion, of children who are orphaned or separated from their parents as a result of the war and who cannot be adequately cared for by a near relative or friend.

A special section of the Bureau set up in accordance with Article 136 shall be responsible for taking all necessary steps to identify children whose identity is in doubt. Particulars of their parents or other near relatives should always be recorded if available.

If new hospitals are set up in occupied territory and if the competent organs of the occupied State are not operating there, the occupying authorities shall, if necessary, grant them the recognition provided for in Article 18. In similar circumstances, the occupying authorities shall also grant recognition to hospital personnel and transport vehicles under the provisions of Articles 20 and 21.

In adopting measures of health and hygiene and in their implementation, the Occupying Power shall take into consideration the moral and ethical susceptibilities of the population of the occupied territory.

Art. 57. The Occupying Power may requisition civilian hospitals of hospitals only temporarily and only in cases of urgent necessity for the care of military wounded and sick, and then on condition that suitable arrangements are made in due time for the care and treatment of the patients and for the needs of the civilian population for hospital accommodation.

The material and stores of civilian hospitals cannot be requisitioned so long as they are necessary for the needs of the civilian population.

Art. 58. The Occupying Power shall permit ministers of religion to give spiritual assistance to the members of their religious communities.

The Occupying Power shall also accept consignments of books and articles required for religious needs and shall facilitate their distribution in occupied territory.

Art. 59. If the whole or part of the population of an occupied territory is inadequately supplied, the Occupying Power shall agree to relief schemes on behalf of the said population, and shall facilitate them by all the means at its disposal.

Such schemes, which may be undertaken either by States or by impartial humanitarian organizations such as the International Committee of the Red Cross, shall consist, in particular, of the provision of consignments of foodstuffs, medical supplies and clothing.

All Contracting Parties shall permit the free passage of these consignments and shall guarantee their protection.

A Power granting free passage to consignments on their way to territory occupied by an adverse Party to the conflict shall, however, have the right to search the consignments, to regulate their passage according to prescribed times and routes, and to be reasonably satisfied through the Protecting Power that these consignments are to be used for the relief of the needy population and are not to be used for the benefit of the Occupying Power.

Art. 60. Relief consignments shall in no way relieve the Occupying Power of any of its responsibilities under Articles 55, 56 and 59. The Occupying Power shall in no way whatsoever divert relief consignments from the purpose for which they are intended, except in cases of urgent necessity, in the interests of the population of the occupied territory and with the consent of the Protecting Power.

Art. 61. The distribution of the relief consignments referred to in the foregoing Articles shall be carried out with the cooperation and under the supervision of the Protecting Power. This duty may also be delegated, by agreement between the Occupying Power and the Protecting Power, to a neutral Power, to the International Committee of the Red Cross or to any other impartial humanitarian body.

Such consignments shall be exempt in occupied territory from all charges, taxes or customs duties unless these are necessary in the interests of the economy of the territory. The Occupying Power shall facilitate the rapid distribution of these consignments.

All Contracting Parties shall endeavour to permit the transit and transport, free of charge, of such relief consignments on their way to occupied territories.

Art. 62. Subject to imperative reasons of security, protected persons in occupied territories shall be permitted to receive the individual relief consignments sent to them.

Art. 63. Subject to temporary and exceptional measures imposed for urgent reasons of security by the Occupying Power:

- (a) recognized National Red Cross (Red Crescent, Red Lion and Sun) Societies shall be able to pursue their activities in accordance with Red Cross principles, as defined by the International Red Cross Conferences. Other relief societies shall be permitted to continue their humanitarian activities under similar conditions;
- (b) the Occupying Power may not require any changes in the personnel or structure of these societies, which

would prejudice the aforesaid activities.

The same principles shall apply to the activities and personnel of special organizations of a non-military character, which already exist or which may be established, for the purpose of ensuring the living conditions of the civilian population by the maintenance of the essential public utility services, by the distribution of relief and by the organization of rescues.

Art. 64. The penal laws of the occupied territory shall remain in force, with the exception that they may be repealed or suspended by the Occupying Power in cases where they constitute a threat to its security or an obstacle to the application of the present Convention.

Subject to the latter consideration and to the necessity for ensuring the effective administration of justice, the tribunals of the occupied territory shall continue to function in respect of all offences covered by the said laws.

The Occupying Power may, however, subject the population of the occupied territory to provisions which are essential to enable the Occupying Power to fulfil its obligations under the present Convention, to maintain the orderly government of the territory, and to ensure the security of the Occupying Power, of the members and property of the occupying forces or administration, and likewise of the establishments and lines of communication used by them.

Art. 65. The penal provisions enacted by the Occupying Power shall not come into force before they have been published and brought to the knowledge of the inhabitants in their own language. The effect of these penal provisions shall not be retroactive.

Art. 66. In case of a breach of the penal provisions promulgated by it by virtue of the second paragraph of Article 64 the Occupying Power may hand over the accused to its properly constituted, non-political military courts, on condition that the said courts sit in the occupied country. Courts of appeal shall preferably sit in the occupied country.

Art. 67. The courts shall apply only those provisions of law which were applicable prior to the offence, and which are in accordance with general principles of law, in particular the principle that the penalty shall be proportionate to the offence. They shall take into consideration the fact the accused is not a national of the Occupying Power.

Art. 68. Protected persons who commit an offence which is solely intended to harm the Occupying Power, but which does not constitute an attempt on the life or limb of members of the occupying forces or administration, nor a grave collective danger, nor seriously damage the property of the occupying forces or administration or the installations used by them, shall be liable to internment or simple imprisonment, provided the duration of such internment or imprisonment is proportionate to the offence committed. Furthermore, internment or imprisonment shall, for such offences, be the only measure adopted for depriving protected persons of liberty. The courts provided for under Article 66 of the present Convention may at their discretion convert a sentence of imprisonment to one of internment for the same period.

The penal provisions promulgated by the Occupying Power in accordance with Articles 64 and 65 may impose the death penalty against a protected person only in cases where the person is guilty of espionage, of serious acts of sabotage against the military installations of the Occupying Power or of intentional offences which have caused the death of one or more persons, provided that such offences were punishable by death under the law of the occupied territory in force before the occupation began.

The death penalty may not be pronounced against a protected person unless the attention of the court has been particularly called to the fact that since the accused is not a national of the Occupying Power, he is not bound to it by any duty of allegiance.

In any case, the death penalty may not be pronounced on a protected person who was under eighteen years of age at the time of the offence.

Art. 69. In all cases the duration of the period during which a protected person accused of an offence is under arrest awaiting trial or punishment shall be deducted from any period of imprisonment of awarded.

Art. 70. Protected persons shall not be arrested, prosecuted or convicted by the Occupying Power for acts committed or for opinions expressed before the occupation, or during a temporary interruption thereof, with the exception of breaches of the laws and customs of war.

Nationals of the occupying Power who, before the outbreak of hostilities, have sought refuge in the territory of the occupied State, shall not be arrested, prosecuted, convicted or deported from the occupied territory, except for offences committed after the outbreak of hostilities, or for offences under common law committed

before the outbreak of hostilities which, according to the law of the occupied State, would have justified extradition in time of peace.

Art. 71. No sentence shall be pronounced by the competent courts of the Occupying Power except after a regular trial.

Accused persons who are prosecuted by the Occupying Power shall be promptly informed, in writing, in a language which they understand, of the particulars of the charges preferred against them, and shall be brought to trial as rapidly as possible. The Protecting Power shall be informed of all proceedings instituted by the Occupying Power against protected persons in respect of charges involving the death penalty or imprisonment for two years or more; it shall be enabled, at any time, to obtain information regarding the state of such proceedings. Furthermore, the Protecting Power shall be entitled, on request, to be furnished with all particulars of these and of any other proceedings instituted by the Occupying Power against protected persons.

The notification to the Protecting Power, as provided for in the second paragraph above, shall be sent immediately, and shall in any case reach the Protecting Power three weeks before the date of the first hearing. Unless, at the opening of the trial, evidence is submitted that the provisions of this Article are fully complied with, the trial shall not proceed. The notification shall include the following particulars:

- (a) description of the accused;
- (b) place of residence or detention;
- (c) specification of the charge or charges (with mention of the penal provisions under which it is brought);
- (d) designation of the court which will hear the case;
- (e) place and date of the first hearing.

Art. 72. Accused persons shall have the right to present evidence necessary to their defence and may, in particular, call witnesses. They shall have the right to be assisted by a qualified advocate or counsel of their own choice, who shall be able to visit them freely and shall enjoy the necessary facilities for preparing the defence.

Failing a choice by the accused, the Protecting Power may provide him with an advocate or counsel. When an accused person has to meet a serious charge and the Protecting Power is not functioning, the Occupying Power, subject to the consent of the accused, shall provide an advocate or counsel.

Accused persons shall, unless they freely waive such assistance, be aided by an interpreter, both during preliminary investigation and during the hearing in court. They shall have the right at any time to object to the interpreter and to ask for his replacement.

Art. 73. A convicted person shall have the right of appeal provided for by the laws applied by the court. He shall be fully informed of his right to appeal or petition and of the time limit within which he may do so.

The penal procedure provided in the present Section shall apply, as far as it is applicable, to appeals. Where the laws applied by the Court make no provision for appeals, the convicted person shall have the right to petition against the finding and sentence to the competent authority of the Occupying Power.

Art. 74. Representatives of the Protecting Power shall have the right to attend the trial of any protected person, unless the hearing has, as an exceptional measure, to be held in camera in the interests of the security of the Occupying Power, which shall then notify the Protecting Power. A notification in respect of the date and place of trial shall be sent to the Protecting Power.

Any judgement involving a sentence of death, or imprisonment for two years or more, shall be communicated, with the relevant grounds, as rapidly as possible to the Protecting Power. The notification shall contain a reference to the notification made under Article 71 and, in the case of sentences of imprisonment, the name of the place where the sentence is to be served. A record of judgements other than those referred to above shall be kept by the court and shall be open to inspection by representatives of the Protecting Power. Any period allowed for appeal in the case of sentences involving the death penalty, or imprisonment of two years or more, shall not run until notification of judgement has been received by the Protecting Power.

Art. 75. In no case shall persons condemned to death be deprived of the right of petition for pardon or reprieve.

No death sentence shall be carried out before the expiration of a period of a least six months from the date of receipt by the Protecting Power of the notification of the final judgment confirming such death sentence, or of an order denying pardon or reprieve.

The six months period of suspension of the death sentence herein prescribed may be reduced in individual

cases in circumstances of grave emergency involving an organized threat to the security of the Occupying Power or its forces, provided always that the Protecting Power is notified of such reduction and is given reasonable time and opportunity to make representations to the competent occupying authorities in respect of such death sentences.

Art. 76. Protected persons accused of offences shall be detained in the occupied country, and if convicted they shall serve their sentences therein. They shall, if possible, be separated from other detainees and shall enjoy conditions of food and hygiene which will be sufficient to keep them in good health, and which will be at least equal to those obtaining in prisons in the occupied country.

They shall receive the medical attention required by their state of health.

They shall also have the right to receive any spiritual assistance which they may require.

Women shall be confined in separate quarters and shall be under the direct supervision of women.

Proper regard shall be paid to the special treatment due to minors.

Protected persons who are detained shall have the right to be visited by delegates of the Protecting Power and of the International Committee of the Red Cross, in accordance with the provisions of Article 143.

Such persons shall have the right to receive at least one relief parcel monthly.

Art. 77. Protected persons who have been accused of offences or convicted by the courts in occupied territory, shall be handed over at the close of occupation, with the relevant records, to the authorities of the liberated territory.

Art. 78. If the Occupying Power considers it necessary, for imperative reasons of security, to take safety measures concerning protected persons, it may, at the most, subject them to assigned residence or to internment.

Decisions regarding such assigned residence or internment shall be made according to a regular procedure to be prescribed by the Occupying Power in accordance with the provisions of the present Convention. This procedure shall include the right of appeal for the parties concerned. Appeals shall be decided with the least possible delay. In the event of the decision being upheld, it shall be subject to periodical review, if possible every six months, by a competent body set up by the said Power.

Protected persons made subject to assigned residence and thus required to leave their homes shall enjoy the full benefit of Article 39 of the present Convention.

Section IV. Regulations for the treatment of internees

Chapter I. General provisions

Art. 79. The Parties to the conflict shall not intern protected persons, except in accordance with the provisions of Articles 41, 42, 43, 68 and 78.

Art. 80. Internees shall retain their full civil capacity and shall exercise such attendant rights as may be compatible with their status.

Art. 81. Parties to the conflict who intern protected persons shall be bound to provide free of charge for their maintenance, and to grant them also the medical attention required by their state of health.

No deduction from the allowances, salaries or credits due to the internees shall be made for the repayment of these costs.

The Detaining Power shall provide for the support of those dependent on the internees, if such dependents are without adequate means of support or are unable to earn a living.

Art. 82. The Detaining Power shall, as far as possible, accommodate the internees according to their nationality, language and customs. Internees who are nationals of the same country shall not be separated merely because they have different languages.

Throughout the duration of their internment, members of the same family, and in particular parents and

children, shall be lodged together in the same place of internment, except when separation of a temporary nature is necessitated for reasons of employment or health or for the purposes of enforcement of the provisions of Chapter IX of the present Section. Internees may request that their children who are left at liberty without parental care shall be interned with them.

Wherever possible, interned members of the same family shall be housed in the same premises and given separate accommodation from other internees, together with facilities for leading a proper family life.

Chapter II. Places of Internment

Art. 83. The Detaining Power shall not set up places of internment in areas particularly exposed to the dangers of war.

The Detaining Power shall give the enemy Powers, through the intermediary of the Protecting Powers, all useful information regarding the geographical location of places of internment.

Whenever military considerations permit, internment camps shall be indicated by the letters IC, placed so as to be clearly visible in the daytime from the air. The Powers concerned may, however, agree upon any other system of marking. No place other than an internment camp shall be marked as such.

Art.84. Internees shall be accommodated and administered separately from prisoners of war and from persons deprived of liberty for any other reason.

Art. 85. The Detaining Power is bound to take all necessary and possible measures to ensure that protected persons shall, from the outset of their internment, be accommodated in buildings or quarters which afford every possible safeguard as regards hygiene and health, and provide efficient protection against the rigours of the climate and the effects of the war. In no case shall permanent places of internment be situated in unhealthy areas or in districts, the climate of which is injurious to the internees. In all cases where the district, in which a protected person is temporarily interned, is in an unhealthy area or has a climate which is harmful to his health, he shall be removed to a more suitable place of internment as rapidly as circumstances permit.

The premises shall be fully protected from dampness, adequately heated and lighted, in particular between dusk and lights out. The sleeping quarters shall be sufficiently spacious and well ventilated, and the internees shall have suitable bedding and sufficient blankets, account being taken of the climate, and the age, sex, and state of health of the internees.

Internees shall have for their use, day and night, sanitary conveniences which conform to the rules of hygiene, and are constantly maintained in a state of cleanliness. They shall be provided with sufficient water and soap for their daily personal toilet and for washing their personal laundry; installations and facilities necessary for this purpose shall be granted to them. Showers or baths shall also be available. The necessary time shall be set aside for washing and for cleaning.

Whenever it is necessary, as an exceptional and temporary measure, to accommodate women internees who are not members of a family unit in the same place of internment as men, the provision of separate sleeping quarters and sanitary conveniences for the use of such women internees shall be obligatory.

Art. 86. The Detaining Power shall place at the disposal of interned persons, of whatever denomination, premises suitable for the holding of their religious services.

Art. 87. Canteens shall be installed in every place of internment, except where other suitable facilities are available. Their purpose shall be to enable internees to make purchases, at prices not higher than local market prices, of foodstuffs and articles of everyday use, including soap and tobacco, such as would increase their personal well-being and comfort.

Profits made by canteens shall be credited to a welfare fund to be set up for each place of internment, and administered for the benefit of the internees attached to such place of internment. The Internee Committee provided for in Article 102 shall have the right to check the management of the canteen and of the said fund.

When a place of internment is closed down, the balance of the welfare fund shall be transferred to the welfare fund of a place of internment for internees of the same nationality, or, if such a place does not exist, to a central welfare fund which shall be administered for the benefit of all internees remaining in the custody of the Detaining Power. In case of a general release, the said profits shall be kept by the Detaining Power, subject to any agreement to the contrary between the Powers concerned.

Art. 88. In all places of internment exposed to air raids and other hazards of war, shelters adequate in number and structure to ensure the necessary protection shall be installed. In case of alarms, the measures

internees shall be free to enter such shelters as quickly as possible, excepting those who remain for the protection of their quarters against the aforesaid hazards. Any protective measures taken in favour of the population shall also apply to them.

All due precautions must be taken in places of internment against the danger of fire.

Chapter III. Food and Clothing

Art. 89. Daily food rations for internees shall be sufficient in quantity, quality and variety to keep internees in a good state of health and prevent the development of nutritional deficiencies. Account shall also be taken of the customary diet of the internees.

Internees shall also be given the means by which they can prepare for themselves any additional food in their possession.

Sufficient drinking water shall be supplied to internees. The use of tobacco shall be permitted.

Internees who work shall receive additional rations in proportion to the kind of labour which they perform.

Expectant and nursing mothers and children under fifteen years of age, shall be given additional food, in proportion to their physiological needs.

Art. 90. When taken into custody, internees shall be given all facilities to provide themselves with the necessary clothing, footwear and change of underwear, and later on, to procure further supplies if required. Should any internees not have sufficient clothing, account being taken of the climate, and be unable to procure any, it shall be provided free of charge to them by the Detaining Power.

The clothing supplied by the Detaining Power to internees and the outward markings placed on their own clothes shall not be ignominious nor expose them to ridicule.

Workers shall receive suitable working outfits, including protective clothing, whenever the nature of their work so requires.

Chapter IV. Hygiene and Medical Attention

Art. 91. Every place of internment shall have an adequate infirmary, under the direction of a qualified doctor, where internees may have the attention they require, as well as an appropriate diet. Isolation wards shall be set aside for cases of contagious or mental diseases.

Maternity cases and internees suffering from serious diseases, or whose condition requires special treatment, a surgical operation or hospital care, must be admitted to any institution where adequate treatment can be given and shall receive care not inferior to that provided for the general population.

Internees shall, for preference, have the attention of medical personnel of their own nationality.

Internees may not be prevented from presenting themselves to the medical authorities for examination. The medical authorities of the Detaining Power shall, upon request, issue to every internee who has undergone treatment an official certificate showing the nature of his illness or injury, and the duration and nature of the treatment given. A duplicate of this certificate shall be forwarded to the Central Agency provided for in Article 140.

Treatment, including the provision of any apparatus necessary for the maintenance of internees in good health, particularly dentures and other artificial appliances and spectacles, shall be free of charge to the internee.

Art. 92. Medical inspections of internees shall be made at least once a month. Their purpose shall be, in particular, to supervise the general state of health, nutrition and cleanliness of internees, and to detect contagious diseases, especially tuberculosis, malaria, and venereal diseases. Such inspections shall include, in particular, the checking of weight of each internee and, at least once a year, radioscopic examination.

Chapter V. Religious, Intellectual and Physical Activities

Art. 93. Internees shall enjoy complete latitude in the exercise of their religious duties, including attendance at

the services of their faith, on condition that they comply with the disciplinary routine prescribed by the detaining authorities.

Ministers of religion who are interned shall be allowed to minister freely to the members of their community. For this purpose the Detaining Power shall ensure their equitable allocation amongst the various places of internment in which there are internees speaking the same language and belonging to the same religion. Should such ministers be too few in number, the Detaining Power shall provide them with the necessary facilities, including means of transport, for moving from one place to another, and they shall be authorized to visit any internees who are in hospital. Ministers of religion shall be at liberty to correspond on matters concerning their ministry with the religious authorities in the country of detention and, as far as possible, with the international religious organizations of their faith. Such correspondence shall not be considered as forming a part of the quota mentioned in Article 107. It shall, however, be subject to the provisions of Article 112.

When internees do not have at their disposal the assistance of ministers of their faith, or should these latter be too few in number, the local religious authorities of the same faith may appoint, in agreement with the Detaining Power, a minister of the internees' faith or, if such a course is feasible from a denominational point of view, a minister of similar religion or a qualified layman. The latter shall enjoy the facilities granted to the ministry he has assumed. Persons so appointed shall comply with all regulations laid down by the Detaining Power in the interests of discipline and security.

Art. 94. The Detaining Power shall encourage intellectual, educational and recreational pursuits, sports and games amongst internees, whilst leaving them free to take part in them or not. It shall take all practicable measures to ensure the exercise thereof, in particular by providing suitable premises.

All possible facilities shall be granted to internees to continue their studies or to take up new subjects. The education of children and young people shall be ensured; they shall be allowed to attend schools either within the place of internment or outside.

Internees shall be given opportunities for physical exercise, sports and outdoor games. For this purpose, sufficient open spaces shall be set aside in all places of internment. Special playgrounds shall be reserved for children and young people.

Art. 95. The Detaining Power shall not employ internees as workers, unless they so desire. Employment which, if undertaken under compulsion by a protected person not in internment, would involve a breach of Articles 40 or 51 of the present Convention, and employment on work which is of a degrading or humiliating character are in any case prohibited.

After a working period of six weeks, internees shall be free to give up work at any moment, subject to eight days' notice.

These provisions constitute no obstacle to the right of the Detaining Power to employ interned doctors, dentists and other medical personnel in their professional capacity on behalf of their fellow internees, or to employ internees for administrative and maintenance work in places of internment and to detail such persons for work in the kitchens or for other domestic tasks, or to require such persons to undertake duties connected with the protection of internees against aerial bombardment or other war risks. No internee may, however, be required to perform tasks for which he is, in the opinion of a medical officer, physically unsuited.

The Detaining Power shall take entire responsibility for all working conditions, for medical attention, for the payment of wages, and for ensuring that all employed internees receive compensation for occupational accidents and diseases. The standards prescribed for the said working conditions and for compensation shall be in accordance with the national laws and regulations, and with the existing practice; they shall in no case be inferior to those obtaining for work of the same nature in the same district. Wages for work done shall be determined on an equitable basis by special agreements between the internees, the Detaining Power, and, if the case arises, employers other than the Detaining Power to provide for free maintenance of internees and for the medical attention which their state of health may require. Internees permanently detailed for categories of work mentioned in the third paragraph of this Article, shall be paid fair wages by the Detaining Power. The working conditions and the scale of compensation for occupational accidents and diseases to internees, thus detailed, shall not be inferior to those applicable to work of the same nature in the same district.

Art.96. All labour detachments shall remain part of and dependent upon a place of internment. The competent authorities of the Detaining Power and the commandant of a place of internment shall be responsible for the observance in a labour detachment of the provisions of the present Convention. The commandant shall keep an up-to-date list of the labour detachments subordinate to him and shall communicate it to the delegates of the Protecting Power, of the International Committee of the Red Cross

and of other humanitarian organizations who may visit the places of internment.

Chapter VI. Personal Property and Financial Resources

Art. 97. Internees shall be permitted to retain articles of personal use. Monies, cheques, bonds, etc., and valuables in their possession may not be taken from them except in accordance with established procedure. Detailed receipts shall be given therefor.

The amounts shall be paid into the account of every internee as provided for in Article 98. Such amounts may not be converted into any other currency unless legislation in force in the territory in which the owner is interned so requires or the internee gives his consent.

Articles which have above all a personal or sentimental value may not be taken away.

A woman internee shall not be searched except by a woman.

On release or repatriation, internees shall be given all articles, monies or other valuables taken from them during internment and shall receive in currency the balance of any credit to their accounts kept in accordance with Article 98, with the exception of any articles or amounts withheld by the Detaining Power by virtue of its legislation in force. If the property of an internee is so withheld, the owner shall receive a detailed receipt.

Family or identity documents in the possession of internees may not be taken away without a receipt being given. At no time shall internees be left without identity documents. If they have none, they shall be issued with special documents drawn up by the detaining authorities, which will serve as their identity papers until the end of their internment.

Internees may keep on their persons a certain amount of money, in cash or in the shape of purchase coupons, to enable them to make purchases.

Art. 98. All internees shall receive regular allowances, sufficient to enable them to purchase goods and articles, such as tobacco, toilet requisites, etc. Such allowances may take the form of credits or purchase coupons.

Furthermore, internees may receive allowances from the Power to which they owe allegiance, the Protecting Powers, the organizations which may assist them, or their families, as well as the income on their property in accordance with the law of the Detaining Power. The amount of allowances granted by the Power to which they owe allegiance shall be the same for each category of internees (infirm, sick, pregnant women, etc.) but may not be allocated by that Power or distributed by the Detaining Power on the basis of discriminations between internees which are prohibited by Article 27 of the present Convention.

The Detaining Power shall open a regular account for every internee, to which shall be credited the allowances named in the present Article, the wages earned and the remittances received, together with such sums taken from him as may be available under the legislation in force in the territory in which he is interned. Internees shall be granted all facilities consistent with the legislation in force in such territory to make remittances to their families and to other dependants. They may draw from their accounts the amounts necessary for their personal expenses, within the limits fixed by the Detaining Power. They shall at all times be afforded reasonable facilities for consulting and obtaining copies of their accounts. A statement of accounts shall be furnished to the Protecting Power, on request, and shall accompany the internee in case of transfer.

Chapter VII. Administration and Discipline

Art. 99. Every place of internment shall be put under the authority of a responsible officer, chosen from the regular military forces or the regular civil administration of the Detaining Power. The officer in charge of the place of internment must have in his possession a copy of the present Convention in the official language, or one of the official languages, of his country and shall be responsible for its application. The staff in control of internees shall be instructed in the provisions of the present Convention and of the administrative measures adopted to ensure its application.

The text of the present Convention and the texts of special agreements concluded under the said Convention shall be posted inside the place of internment, in a language which the internees understand, or shall be in the possession of the Internee Committee.

Regulations, orders, notices and publications of every kind shall be communicated to the internees and posted inside the places of internment, in a language which they understand.

Every order and command addressed to internees individually must, likewise, be given in a language which they understand.

Art. 100. The disciplinary regime in places of internment shall be consistent with humanitarian principles, and shall in no circumstances include regulations imposing on internees any physical exertion dangerous to their health or involving physical or moral victimization. Identification by tattooing or imprinting signs or markings on the body, is prohibited.

In particular, prolonged standing and roll-calls, punishment drill, military drill and manoeuvres, or the reduction of food rations, are prohibited.

Art. 101. Internees shall have the right to present to the authorities in whose power they are, any petition with regard to the conditions of internment to which they are subjected.

They shall also have the right to apply without restriction through the Internee Committee or, if they consider necessary, direct to the representatives of the Protecting Power, in order to indicate to them any points on which they may have complaints to make with regard to the conditions of internment.

Such petitions and complaints shall be transmitted forthwith and without alteration, and even if the latter are recognized to be unfounded, they may not occasion any punishment.

Periodic reports on the situation in places of internment and as to the needs of the internees may be sent by the Internee Committees to the representatives of the Protecting Powers.

Art. 102. In every place of internment, the internees shall freely elect by secret ballot every six months, the members of a Committee empowered to represent them before the Detaining and the Protecting Powers, the International Committee of the Red Cross and any other organization which may assist them. The members of the Committee shall be eligible for re-election.

Internees so elected shall enter upon their duties after their election has been approved by the detaining authorities. The reasons for any refusals or dismissals shall be communicated to the Protecting Powers concerned.

Art. 103. The Internee Committees shall further the physical, spiritual and intellectual well-being of the internees.

In case the internees decide, in particular, to organize a system of mutual assistance amongst themselves, this organization would be within the competence of the Committees in addition to the special duties entrusted to them under other provisions of the present Convention.

Art. 104. Members of Internee Committees shall not be required to perform any other work, if the accomplishment of their duties is rendered more difficult thereby.

Members of Internee Committees may appoint from amongst the internees such assistants as they may require. All material facilities shall be granted to them, particularly a certain freedom of movement necessary for the accomplishment of their duties (visits to labour detachments, receipt of supplies, etc.).

All facilities shall likewise be accorded to members of Internee Committees for communication by post and telegraph with the detaining authorities, the Protecting Powers, the International Committee of the Red Cross and their delegates, and with the organizations which give assistance to internees. Committee members in labour detachments shall enjoy similar facilities for communication with their Internee Committee in the principal place of internment. Such communications shall not be limited, nor considered as forming a part of the quota mentioned in Article 107.

Members of Internee Committees who are transferred shall be allowed a reasonable time to acquaint their successors with current affairs.

Chapter VIII. Relations with the Exterior

Art. 105. Immediately upon interning protected persons, the Detaining Powers shall inform them, the Power to which they owe allegiance and their Protecting Power of the measures taken for executing the provisions of the present Chapter. The Detaining Powers shall likewise inform the Parties concerned of any subsequent modifications of such measures.

Art. 106. As soon as he is interned, or at the latest not more than one week after his arrival in a place of internment, and likewise in cases of sickness or transfer to another place of internment or to a hospital, every internee shall be enabled to send direct to his family, on the one hand, and to the Central Agency provided for by Article 140, on the other, an internment card similar, if possible, to the model annexed to the present Convention, informing his relatives of his detention, address and state of health. The said cards shall be forwarded as rapidly as possible and may not be delayed in any way.

Art. 107. Internees shall be allowed to send and receive letters and cards. If the Detaining Power deems it necessary to limit the number of letters and cards sent by each internee, the said number shall not be less than two letters and four cards monthly; these shall be drawn up so as to conform as closely as possible to the models annexed to the present Convention. If limitations must be placed on the correspondence addressed to internees, they may be ordered only by the Power to which such internees owe allegiance, possibly at the request of the Detaining Power. Such letters and cards must be conveyed with reasonable despatch; they may not be delayed or retained for disciplinary reasons.

Internees who have been a long time without news, or who find it impossible to receive news from their relatives, or to give them news by the ordinary postal route, as well as those who are at a considerable distance from their homes, shall be allowed to send telegrams, the charges being paid by them in the currency at their disposal. They shall likewise benefit by this provision in cases which are recognized to be urgent.

As a rule, internees' mail shall be written in their own language. The Parties to the conflict may authorize correspondence in other languages.

Art. 108. Internees shall be allowed to receive, by post or by any other means, individual parcels or collective shipments containing in particular foodstuffs, clothing, medical supplies, as well as books and objects of a devotional, educational or recreational character which may meet their needs. Such shipments shall in no way free the Detaining Power from the obligations imposed upon it by virtue of the present Convention.

Should military necessity require the quantity of such shipments to be limited, due notice thereof shall be given to the Protecting Power and to the International Committee of the Red Cross, or to any other organization giving assistance to the internees and responsible for the forwarding of such shipments.

The conditions for the sending of individual parcels and collective shipments shall, if necessary, be the subject of special agreements between the Powers concerned, which may in no case delay the receipt by the internees of relief supplies. Parcels of clothing and foodstuffs may not include books. Medical relief supplies shall, as a rule, be sent in collective parcels.

Art. 109. In the absence of special agreements between Parties to the conflict regarding the conditions for the receipt and distribution of collective relief shipments, the regulations concerning collective relief which are annexed to the present Convention shall be applied.

The special agreements provided for above shall in no case restrict the right of Internee Committees to take possession of collective relief shipments intended for internees, to undertake their distribution and to dispose of them in the interests of the recipients. Nor shall such agreements restrict the right of representatives of the Protecting Powers, the International Committee of the Red Cross, or any other organization giving assistance to internees and responsible for the forwarding of collective shipments, to supervise their distribution to the recipients.

Art. 110. An relief shipments for internees shall be exempt from import, customs and other dues.

All matter sent by mail, including relief parcels sent by parcel post and remittances of money, addressed from other countries to internees or despatched by them through the post office, either direct or through the Information Bureaux provided for in Article 136 and the Central Information Agency provided for in Article 140, shall be exempt from all postal dues both in the countries of origin and destination and in intermediate countries. To this end, in particular, the exemption provided by the Universal Postal Convention of 1947 and by the agreements of the Universal Postal Union in favour of civilians of enemy nationality detained in camps or civilian prisons, shall be extended to the other interned persons protected by the present Convention. The countries not signatory to the above-mentioned agreements shall be bound to grant freedom from charges in the same circumstances.

The cost of transporting relief shipments which are intended for internees and which, by reason of their weight or any other cause, cannot be sent through the post office, shall be borne by the Detaining Power in all the territories under its control. Other Powers which are Parties to the present Convention shall bear the cost of transport in their respective territories.

Costs connected with the transport of such shipments, which are not covered by the above paragraphs, shall be charged to the senders.

The High Contracting Parties shall endeavour to reduce, so far as possible, the charges for telegrams sent by internees, or addressed to them.

Art. 111. Should military operations prevent the Powers concerned from fulfilling their obligation to ensure the conveyance of the mail and relief shipments provided for in Articles 106, 107, 108 and 113, the Protecting Powers concerned, the International Committee of the Red Cross or any other organization duly approved by the Parties to the conflict may undertake the conveyance of such shipments by suitable means (rail, motor vehicles, vessels or aircraft, etc.). For this purpose, the High Contracting Parties shall endeavour to supply them with such transport, and to allow its circulation, especially by granting the necessary safe-conducts.

Such transport may also be used to convey:

(a) correspondence, lists and reports exchanged between the Central Information Agency referred to in Article 140 and the National Bureaux referred to in Article 136;

(b) correspondence and reports relating to internees which the Protecting Powers, the International Committee of the Red Cross or any other organization assisting the internees exchange either with their own delegates or with the Parties to the conflict.

These provisions in no way detract from the right of any Party to the conflict to arrange other means of transport if it should so prefer, nor preclude the granting of safe-conducts, under mutually agreed conditions, to such means of transport.

The costs occasioned by the use of such means of transport shall be borne, in proportion to the importance of the shipments, by the Parties to the conflict whose nationals are benefited thereby.

Art. 112. The censoring of correspondence addressed to internees or despatched by them shall be done as quickly as possible.

The examination of consignments intended for internees shall not be carried out under conditions that will expose the goods contained in them to deterioration. It shall be done in the presence of the addressee, or of a fellow-internee duly delegated by him. The delivery to internees of individual or collective consignments shall not be delayed under the pretext of difficulties of censorship.

Any prohibition of correspondence ordered by the Parties to the conflict either for military or political reasons, shall be only temporary and its duration shall be as short as possible.

Art. 113. The Detaining Powers shall provide all reasonable execution facilities for the transmission, through the Protecting Power or the Central Agency provided for in Article 140, or as otherwise required, of wills, powers of attorney, letters of authority, or any other documents intended for internees or despatched by them.

In all cases the Detaining Powers shall facilitate the execution and authentication in due legal form of such documents on behalf of internees, in particular by allowing them to consult a lawyer.

Art. 114. The Detaining Power shall afford internees all facilities to enable them to manage their property, provided this is not incompatible with the conditions of internment and the law which is applicable. For this purpose, the said Power may give them permission to leave the place of internment in urgent cases and if circumstances allow.

Art. 115. In all cases where an internee is a party to proceedings in any court, the Detaining Power shall, if he so requests, cause the court to be informed of his detention and shall, within legal limits, ensure that all necessary steps are taken to prevent him from being in any way prejudiced, by reason of his internment, as regards the preparation and conduct of his case or as regards the execution of any judgment of the court.

Art. 116. Every internee shall be allowed to receive visitors, especially near relatives, at regular intervals and as frequently as possible.

As far as is possible, internees shall be permitted to visit their homes in urgent cases, particularly in cases of death or serious illness of relatives.

Chapter IX. Penal and Disciplinary Sanctions

Art. 117. Subject to the provisions of the present Chapter, the laws in force in the territory in which they are detained will continue to apply to internees who commit offences during internment.

If general laws, regulations or orders declare acts committed by internees to be punishable, whereas the same acts are not punishable when committed by persons who are not internees, such acts shall entail disciplinary punishments only.

No internee may be punished more than once for the same act, or on the same count.

Art. 118. The courts or authorities shall in passing sentence take as far as possible into account the fact that the defendant is not a national of the Detaining Power. They shall be free to reduce the penalty prescribed for the offence with which the internee is charged and shall not be obliged, to this end, to apply the minimum sentence prescribed.

Imprisonment in premises without daylight, and, in general, all forms of cruelty without exception are forbidden.

Internees who have served disciplinary or judicial sentences shall not be treated differently from other internees.

The duration of preventive detention undergone by an internee shall be deducted from any disciplinary or judicial penalty involving confinement to which he may be sentenced.

Internee Committees shall be informed of all judicial proceedings instituted against internees whom they represent, and of their result.

Art. 119. The disciplinary punishments applicable to internees shall be the following:

(1) a fine which shall not exceed 50 per cent of the wages which the internee would otherwise receive under the provisions of Article 95 during a period of not more than thirty days.

(2) discontinuance of privileges granted over and above the treatment provided for by the present Convention

(3) fatigue duties, not exceeding two hours daily, in connection with the maintenance of the place of internment.

(4) confinement.

In no case shall disciplinary penalties be inhuman, brutal or dangerous for the health of internees. Account shall be taken of the internee's age, sex and state of health.

The duration of any single punishment shall in no case exceed a maximum of thirty consecutive days, even if the internee is answerable for several breaches of discipline when his case is dealt with, whether such breaches are connected or not.

Art. 120. Internees who are recaptured after having escaped or when attempting to escape, shall be liable only to disciplinary punishment in respect of this act, even if it is a repeated offence.

Article 118, paragraph 3, notwithstanding, internees punished as a result of escape or attempt to escape, may be subjected to special surveillance, on condition that such surveillance does not affect the state of their health, that it is exercised in a place of internment and that it does not entail the abolition of any of the safeguards granted by the present Convention.

Internees who aid and abet an escape or attempt to escape, shall be liable on this count to disciplinary punishment only.

Art. 121. Escape, or attempt to escape, even if it is a repeated offence, shall not be deemed an aggravating circumstance in cases where an internee is prosecuted for offences committed during his escape.

The Parties to the conflict shall ensure that the competent authorities exercise leniency in deciding whether punishment inflicted for an offence shall be of a disciplinary or judicial nature, especially in respect of acts committed in connection with an escape, whether successful or not.

Art. 122. Acts which constitute offences against discipline shall be investigated immediately. This rule shall be applied, in particular, in cases of escape or attempt to escape. Recaptured internees shall be handed over to the competent authorities as soon as possible.

In cases of offences against discipline, confinement awaiting trial shall be reduced to an absolute minimum for all internees, and shall not exceed fourteen days. Its duration shall in any case be deducted from any sentence of confinement.

The provisions of Articles 124 and 125 shall apply to internees who are in confinement awaiting trial for offences against discipline.

Art. 123. Without prejudice to the competence of courts and higher authorities, disciplinary punishment may be ordered only by the commandant of the place of internment, or by a responsible officer or official who replaces him, or to whom he has delegated his disciplinary powers.

Before any disciplinary punishment is awarded, the accused internee shall be given precise information regarding the offences of which he is accused, and given an opportunity of explaining his conduct and of defending himself. He shall be permitted, in particular, to call witnesses and to have recourse, if necessary, to the services of a qualified interpreter. The decision shall be announced in the presence of the accused and of a member of the Internee Committee.

The period elapsing between the time of award of a disciplinary punishment and its execution shall not exceed one month.

When an internee is awarded a further disciplinary punishment, a period of at least three days shall elapse between the execution of any two of the punishments, if the duration of one of these is ten days or more.

A record of disciplinary punishments shall be maintained by the commandant of the place of internment and shall be open to inspection by representatives of the Protecting Power.

Art. 124. Internees shall not in any case be transferred to penitentiary establishments (prisons, penitentiaries, convict prisons, etc.) to undergo disciplinary punishment therein.

The premises in which disciplinary punishments are undergone shall conform to sanitary requirements: they shall in particular be provided with adequate bedding. Internees undergoing punishment shall be enabled to keep themselves in a state of cleanliness.

Women internees undergoing disciplinary punishment shall be confined in separate quarters from male internees and shall be under the immediate supervision of women.

Art. 125. Internees awarded disciplinary punishment shall be allowed to exercise and to stay in the open air at least two hours daily.

They shall be allowed, if they so request, to be present at the daily medical inspections. They shall receive the attention which their state of health requires and, if necessary, shall be removed to the infirmary of the place of internment or to a hospital.

They shall have permission to read and write, likewise to send and receive letters. Parcels and remittances of money, however, may be withheld from them until the completion of their punishment; such consignments shall meanwhile be entrusted to the Internee Committee, who will hand over to the infirmary the perishable goods contained in the parcels.

No internee given a disciplinary punishment may be deprived of the benefit of the provisions of Articles 107 and 143 of the present Convention.

Art. 126. The provisions of Articles 71 to 76 inclusive shall apply, by analogy, to proceedings against internees who are in the national territory of the Detaining Power.

Chapter X. Transfers of Internees

Art. 127. The transfer of internees shall always be effected humanely. As a general rule, it shall be carried out by rail or other means of transport, and under conditions at least equal to those obtaining for the forces of the Detaining Power in their changes of station. If, as an exceptional measure, such removals have to be effected on foot, they may not take place unless the internees are in a fit state of health, and may not in any case expose them to excessive fatigue.

The Detaining Power shall supply internees during transfer with drinking water and food sufficient in quantity, quality and variety to maintain them in good health, and also with the necessary clothing, adequate shelter and the necessary medical attention. The Detaining Power shall take all suitable precautions to ensure their safety during transfer, and shall establish before their departure a complete list of all internees transferred.

Sick, wounded or infirm internees and maternity cases shall not be transferred if the journey would be seriously detrimental to them, unless their safety imperatively so demands.

If the combat zone draws close to a place of internment, the internees in the said place shall not be transferred unless their removal can be carried out in adequate conditions of safety, or unless they are exposed to greater risks by remaining on the spot than by being transferred.

When making decisions regarding the transfer of internees, the Detaining Power shall take their interests into account and, in particular, shall not do anything to increase the difficulties of repatriating them or returning them to their own homes.

Art. 128. In the event of transfer, internees shall be officially advised of their departure and of their new postal address. Such notification shall be given in time for them to pack their luggage and inform their next of kin.

They shall be allowed to take with them their personal effects, and the correspondence and parcels which have arrived for them. The weight of such baggage may be limited if the conditions of transfer so require, but in no case to less than twenty-five kilograms per internee.

Mail and parcels addressed to their former place of internment shall be forwarded to them without delay.

The commandant of the place of internment shall take, in agreement with the Internee Committee, any measures needed to ensure the transport of the internees' community property and of the luggage the internees are unable to take with them in consequence of restrictions imposed by virtue of the second paragraph.

Chapter XI. Deaths

Art. 129. The wills of internees shall be received for safe-keeping by the responsible authorities; and if the event of the death of an internee his will shall be transmitted without delay to a person whom he has previously designated.

Deaths of internees shall be certified in every case by a doctor, and a death certificate shall be made out, showing the causes of death and the conditions under which it occurred.

An official record of the death, duly registered, shall be drawn up in accordance with the procedure relating thereto in force in the territory where the place of internment is situated, and a duly certified copy of such record shall be transmitted without delay to the Protecting Power as well as to the Central Agency referred to in Article 140.

Art. 130. The detaining authorities shall ensure that internees who die while interned are honourably buried, if possible according to the rites of the religion to which they belonged and that their graves are respected, properly maintained, and marked in such a way that they can always be recognized.

Deceased internees shall be buried in individual graves unless unavoidable circumstances require the use of collective graves. Bodies may be cremated only for imperative reasons of hygiene, on account of the religion of the deceased or in accordance with his expressed wish to this effect. In case of cremation, the fact shall be stated and the reasons given in the death certificate of the deceased. The ashes shall be retained for safe-keeping by the detaining authorities and shall be transferred as soon as possible to the next of kin on their request.

As soon as circumstances permit, and not later than the close of hostilities, the Detaining Power shall forward lists of graves of deceased internees to the Powers on whom deceased internees depended, through the Information Bureaux provided for in Article 136. Such lists shall include all particulars necessary for the identification of the deceased internees, as well as the exact location of their graves.

Art. 131. Every death or serious injury of an internee, caused or suspected to have been caused by a sentry, another internee or any other person, as well as any death the cause of which is unknown, shall be immediately followed by an official enquiry by the Detaining Power.

A communication on this subject shall be sent immediately to the Protecting Power. The evidence of any witnesses shall be taken, and a report including such evidence shall be prepared and forwarded to the said Protecting Power.

If the enquiry indicates the guilt of one or more persons, the Detaining Power shall take all necessary steps to ensure the prosecution of the person or persons responsible.

Chapter XIII. Release, Repatriation and Accommodation in Neutral Countries

Art. 132. Each interned person shall be released by the Detaining Power as soon as the reasons which necessitated his internment no longer exist.

The Parties to the conflict shall, moreover, endeavour during the course of hostilities, to conclude agreements for the release, the repatriation, the return to places of residence or the accommodation in a neutral country of certain classes of internees, in particular children, pregnant women and mothers with infants and young children, wounded and sick, and internees who have been detained for a long time.

Art. 133. Internment shall cease as soon as possible after the close of hostilities.

Internees in the territory of a Party to the conflict against whom penal proceedings are pending for offences not exclusively subject to disciplinary penalties, may be detained until the close of such proceedings and, if circumstances require, until the completion of the penalty. The same shall apply to internees who have been previously sentenced to a punishment depriving them of liberty.

By agreement between the Detaining Power and the Powers concerned, committees may be set up after the close of hostilities, or of the occupation of territories, to search for dispersed internees.

Art. 134. The High Contracting Parties shall endeavour, upon the close of hostilities or occupation, to ensure the return of all internees to their last place of residence, or to facilitate their repatriation.

Art. 135. The Detaining Power shall bear the expense of returning released internees to the places where they were residing when interned, or, if it took them into custody while they were in transit or on the high seas, the cost of completing their journey or of their return to their point of departure.

Where a Detaining Power refuses permission to reside in its territory to a released internee who previously had his permanent domicile therein, such Detaining Power shall pay the cost of the said internee's repatriation. If, however, the internee elects to return to his country on his own responsibility or in obedience to the Government of the Power to which he owes allegiance, the Detaining Power need not pay the expenses of his journey beyond the point of his departure from its territory. The Detaining Power need not pay the cost of repatriation of an internee who was interned at his own request.

If internees are transferred in accordance with Article 45, the transferring and receiving Powers shall agree on the portion of the above costs to be borne by each.

The foregoing shall not prejudice such special agreements as may be concluded between Parties to the conflict concerning the exchange and repatriation of their nationals in enemy hands.

Section V. Information Bureaux and Central Agency

Art. 136. Upon the outbreak of a conflict and in all cases of occupation, each of the Parties to the conflict shall establish an official Information Bureau responsible for receiving and transmitting information in respect of the protected persons who are in its power.

Each of the Parties to the conflict shall, within the shortest possible period, give its Bureau information of any measure taken by it concerning any protected persons who are kept in custody for more than two weeks, who are subjected to assigned residence or who are interned. It shall, furthermore, require its various departments concerned with such matters to provide the aforesaid Bureau promptly with information concerning all changes pertaining to these protected persons, as, for example, transfers, releases, repatriations, escapes, admittances to hospitals, births and deaths.

Art. 137. Each national Bureau shall immediately forward information concerning protected persons by the most rapid means to the Powers in whose territory they resided, through the intermediary of the Protecting Powers and likewise through the Central Agency provided for in Article 140. The Bureaux shall also reply to all enquiries which may be received regarding protected persons.

Information Bureaux shall transmit information concerning a protected person unless its transmission might be detrimental to the person concerned or to his or her relatives. Even in such a case, the information may not be withheld from the Central Agency which, upon being notified of the circumstances, will take the necessary precautions indicated in Article 140.

All communications in writing made by any Bureau shall be authenticated by a signature or a seal.

Art. 138. The information received by the national Bureau and transmitted by it shall be of such a character

as to make it possible to identify the protected person exactly and to advise his next of kin quickly. The information in respect of each person shall include at least his surname, first names, place and date of birth, nationality last residence and distinguishing characteristics, the first name of the father and the maiden name of the mother, the date, place and nature of the action taken with regard to the individual, the address at which correspondence may be sent to him and the name and address of the person to be informed.

Likewise, information regarding the state of health of internees who are seriously ill or seriously wounded shall be supplied regularly and if possible every week.

Art. 139. Each national Information Bureau shall, furthermore, be responsible for collecting all personal valuables left by protected persons mentioned in Article 136, in particular those who have been repatriated or released, or who have escaped or died; it shall forward the said valuables to those concerned, either direct, or, if necessary, through the Central Agency. Such articles shall be sent by the Bureau in sealed packets which shall be accompanied by statements giving clear and full identity particulars of the person to whom the articles belonged, and by a complete list of the contents of the parcel. Detailed records shall be maintained of the receipt and despatch of all such valuables.

Art. 140. A Central Information Agency for protected persons, in particular for internees, shall be created in a neutral country. The International Committee of the Red Cross shall, if it deems necessary, propose to the Powers concerned the organization of such an Agency, which may be the same as that provided for in Article 123 of the Geneva Convention relative to the Treatment of Prisoners of War of 12 August 1949.

The function of the Agency shall be to collect all information of the type set forth in Article 136 which it may obtain through official or private channels and to transmit it as rapidly as possible to the countries of origin or of residence of the persons concerned, except in cases where such transmissions might be detrimental to the persons whom the said information concerns, or to their relatives. It shall receive from the Parties to the conflict all reasonable facilities for effecting such transmissions.

The High Contracting Parties, and in particular those whose nationals benefit by the services of the Central Agency, are requested to give the said Agency the financial aid it may require.

The foregoing provisions shall in no way be interpreted as restricting the humanitarian activities of the International Committee of the Red Cross and of the relief Societies described in Article 142.

Art. 141. The national Information Bureaux and the Central Information Agency shall enjoy free postage for all mail, likewise the exemptions provided for in Article 110, and further, so far as possible, exemption from telegraphic charges or, at least, greatly reduced rates.

Part IV. Execution of the Convention

Section I. General Provisions

Art. 142. Subject to the measures which the Detaining Powers may consider essential to ensure their security or to meet any other reasonable need, the representatives of religious organizations, relief societies, or any other organizations assisting the protected persons, shall receive from these Powers, for themselves or their duly accredited agents, all facilities for visiting the protected persons, for distributing relief supplies and material from any source, intended for educational, recreational or religious purposes, or for assisting them in organizing their leisure time within the places of internment. Such societies or organizations may be constituted in the territory of the Detaining Power, or in any other country, or they may have an international character.

The Detaining Power may limit the number of societies and organizations whose delegates are allowed to carry out their activities in its territory and under its supervision, on condition, however, that such limitation shall not hinder the supply of effective and adequate relief to all protected persons.

The special position of the International Committee of the Red Cross in this field shall be recognized and respected at all times.

Art. 143. Representatives or delegates of the Protecting Powers shall have permission to go to all places where protected persons are, particularly to places of internment, detention and work.

They shall have access to all premises occupied by protected persons and shall be able to interview the latter without witnesses, personally or through an interpreter.

Such visits may not be prohibited except for reasons of imperative military necessity, and then only as an

exceptional and temporary measure. Their duration and frequency shall not be restricted.

Such representatives and delegates shall have full liberty to select the places they wish to visit. The Detaining or Occupying Power, the Protecting Power and when occasion arises the Power of origin of the persons to be visited, may agree that compatriots of the internees shall be permitted to participate in the visits.

The delegates of the International Committee of the Red Cross shall also enjoy the above prerogatives. The appointment of such delegates shall be submitted to the approval of the Power governing the territories where they will carry out their duties.

Art. 144. The High Contracting Parties undertake, in time of peace as in time of war, to disseminate the text of the present Convention as widely as possible in their respective countries, and, in particular, to include the study thereof in their programmes of military and, if possible, civil instruction, so that the principles thereof may become known to the entire population.

Any civilian, military, police or other authorities, who in time of war assume responsibilities in respect of protected persons, must possess the text of the Convention and be specially instructed as to its provisions.

Art. 145. The High Contracting Parties shall communicate to one another through the Swiss Federal Council and, during hostilities, through the Protecting Powers, the official translations of the present Convention, as well as the laws and regulations which they may adopt to ensure the application thereof.

Art. 146. The High Contracting Parties undertake to enact any legislation necessary to provide effective penal sanctions for persons committing, or ordering to be committed, any of the grave breaches of the present Convention defined in the following Article.

Each High Contracting Party shall be under the obligation to search for persons alleged to have committed, or to have ordered to be committed, such grave breaches, and shall bring such persons, regardless of their nationality, before its own courts. It may also, if it prefers, and in accordance with the provisions of its own legislation, hand such persons over for trial to another High Contracting Party concerned, provided such High Contracting Party has made out a prima facie case.

Each High Contracting Party shall take measures necessary for the suppression of all acts contrary to the provisions of the present Convention other than the grave breaches defined in the following Article.

In all circumstances, the accused persons shall benefit by safeguards of proper trial and defence, which shall not be less favourable than those provided by Article 105 and those following of the Geneva Convention relative to the Treatment of Prisoners of War of 12 August 1949.

Art. 147. Grave breaches to which the preceding Article relates shall be those involving any of the following acts, if committed against persons or property protected by the present Convention: wilful killing, torture or inhuman treatment, including biological experiments, wilfully causing great suffering or serious injury to body or health, unlawful deportation or transfer or unlawful confinement of a protected person, compelling a protected person to serve in the forces of a hostile Power, or wilfully depriving a protected person of the rights of fair and regular trial prescribed in the present Convention, taking of hostages and extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly.

Art. 148. No High Contracting Party shall be allowed to absolve itself or any other High Contracting Party of any liability incurred by itself or by another High Contracting Party in respect of breaches referred to in the preceding Article.

Art. 149. At the request of a Party to the conflict, an enquiry shall be instituted, in a manner to be decided between the interested Parties, concerning any alleged violation of the Convention.

If agreement has not been reached concerning the procedure for the enquiry, the Parties should agree on the choice of an umpire who will decide upon the procedure to be followed.

Once the violation has been established, the Parties to the conflict shall put an end to it and shall repress it with the least possible delay.

Section II. Final Provisions

Art. 150. The present Convention is established in English and in French. Both texts are equally authentic.

The Swiss Federal Council shall arrange for official translations of the Convention to be made in the Russian

and Spanish languages.

Art. 151. The present Convention, which bears the date of this day, is open to signature until 12 February 1950, in the name of the Powers represented at the Conference which opened at Geneva on 21 April 1949.

Art. 152. The present Convention shall be ratified as soon as possible and the ratifications shall be deposited at Berne.

A record shall be drawn up of the deposit of each instrument of ratification and certified copies of this record shall be transmitted by the Swiss Federal Council to all the Powers in whose name the Convention has been signed, or whose accession has been notified.

Art. 153. The present Convention shall come into force six months after not less than two instruments of ratification have been deposited.

Thereafter, it shall come into force for each High Contracting Party six months after the deposit of the instrument of ratification.

Art. 154. In the relations between the Powers who are bound by the Hague Conventions respecting the Laws and Customs of War on Land, whether that of 29 July 1899, or that of 18 October 1907, and who are parties to the present Convention, this last Convention shall be supplementary to Sections II and III of the Regulations annexed to the above-mentioned Conventions of The Hague.

Art. 155. From the date of its coming into force, it shall be open to any Power in whose name the present Convention has not been signed, to accede to this Convention.

Art. 156. Accessions shall be notified in writing to the Swiss Federal Council, and shall take effect six months after the date on which they are received.

The Swiss Federal Council shall communicate the accessions to all the Powers in whose name the Convention has been signed, or whose accession has been notified.

Art. 157. The situations provided for in Articles 2 and 3 shall have immediate effect to ratifications deposited and accessions notified by the Parties to the conflict before or after the beginning of hostilities or occupation. The Swiss Federal Council shall communicate by the quickest method any ratifications or accessions received from Parties to the conflict.

Art. 158. Each of the High Contracting Parties shall be at liberty to denounce the present Convention.

The denunciation shall be notified in writing to the Swiss Federal Council, which shall transmit it to the Governments of all the High Contracting Parties.

The denunciation shall take effect one year after the notification thereof has been made to the Swiss Federal Council. However, a denunciation of which notification has been made at a time when the denouncing Power is involved in a conflict shall not take effect until peace has been concluded, and until after operations connected with the release, repatriation and re-establishment of the persons protected by the present Convention have been terminated.

The denunciation shall have effect only in respect of the denouncing Power. It shall in no way impair the obligations which the Parties to the conflict shall remain bound to fulfil by virtue of the principles of the law of nations, as they result from the usages established among civilized peoples, from the laws of humanity and the dictates of the public conscience.

Art. 159. The Swiss Federal Council shall register the present Convention with the Secretariat of the United Nations. The Swiss Federal Council shall also inform the Secretariat of the United Nations of all ratifications, accessions and denunciations received by it with respect to the present Convention.

In witness whereof the undersigned, having deposited their respective full powers, have signed the present Convention.

Done at Geneva this twelfth day of August 1949, in the English and French languages. The original shall be deposited in the Archives of the Swiss Confederation. The Swiss Federal Council shall transmit certified copies thereof to each of the signatory and acceding States.

Annex I. Draft Agreement Relating to Hospital and Safety Zones and Localities

Art. 1. Hospital and safety zones shall be strictly reserved for the persons mentioned in Article 23 of the Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field of 12 August 1949, and in Article 14 of the Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949, and for the personnel entrusted with the organization and administration of these zones and localities, and with the care of the persons therein assembled.

Nevertheless, persons whose permanent residence is within such zones shall have the right to stay there.

Art. 2. No persons residing, in whatever capacity, in a hospital and safety zone shall perform any work, either within or without the zone, directly connected with military operations or the production of war material.

Art. 3. The Power establishing a hospital and safety zone shall take all necessary measures to prohibit access to all persons who have no right of residence or entry therein.

Art. 4. Hospital and safety zones shall fulfil the following conditions:

- (a) they shall comprise only a small part of the territory governed by the Power which has established them
- (b) they shall be thinly populated in relation to the possibilities of accommodation
- (c) they shall be far removed and free from all military objectives, or large industrial or administrative establishments
- (d) they shall not be situated in areas which, according to every probability, may become important for the conduct of the war.

Art. 5. Hospital and safety zones shall be subject to the following obligations:

- (a) the lines of communication and means of transport which they possess shall not be used for the transport of military personnel or material, even in transit
- (b) they shall in no case be defended by military means.

Art. 6. Hospital and safety zones shall be marked by means of oblique red bands on a white ground, placed on the buildings and outer precincts.

Zones reserved exclusively for the wounded and sick may be marked by means of the Red Cross (Red Crescent, Red Lion and Sun) emblem on a white ground.

They may be similarly marked at night by means of appropriate illumination.

Art. 7. The Powers shall communicate to all the High Contracting Parties in peacetime or on the outbreak of hostilities, a list of the hospital and safety zones in the territories governed by them. They shall also give notice of any new zones set up during hostilities.

As soon as the adverse party has received the above-mentioned notification, the zone shall be regularly established.

If, however, the adverse party considers that the conditions of the present agreement have not been fulfilled, it may refuse to recognize the zone by giving immediate notice thereof to the Party responsible for the said zone, or may make its recognition of such zone dependent upon the institution of the control provided for in Article 8.

Art. 8. Any Power having recognized one or several hospital and safety zones instituted by the adverse Party shall be entitled to demand control by one or more Special Commissions, for the purpose of ascertaining if the zones fulfil the conditions and obligations stipulated in the present agreement.

For this purpose, members of the Special Commissions shall at all times have free access to the various zones and may even reside there permanently. They shall be given all facilities for their duties of inspection.

Art. 9. Should the Special Commissions note any facts which they consider contrary to the stipulations of the present agreement, they shall at once draw the attention of the Power governing the said zone to these facts, and shall fix a time limit of five days within which the matter should be rectified. They shall duly notify the Power which has recognized the zone.

If, when the time limit has expired, the Power governing the zone has not complied with the warning, the adverse Party may declare that it is no longer bound by the present agreement in respect of the said zone.

Art. 10. Any Power setting up one or more hospital and safety zones, and the adverse Parties to whom their

existence has been notified, shall nominate or have nominated by the Protecting Powers or by other neutral Powers, persons eligible to be members of the Special Commissions mentioned in Articles 8 and 9.

Art. 11. In no circumstances may hospital and safety zones be the object of attack. They shall be protected and respected at all times by the Parties to the conflict.

Art. 12. In the case of occupation of a territory, the hospital and safety zones therein shall continue to be respected and utilized as such.

Their purpose may, however, be modified by the Occupying Power, on condition that all measures are taken to ensure the safety of the persons accommodated.

Art. 13. The present agreement shall also apply to localities which the Powers may utilize for the same purposes as hospital and safety zones.

Annex II. Draft Regulations concerning Collective Relief

Article 1. The Internee Committees shall be allowed to distribute collective relief shipments for which they are responsible to all internees who are dependent for administration on the said Committee's place of internment, including those internees who are in hospitals, or in prison or other penitentiary establishments.

Art. 2. The distribution of collective relief shipments shall be effected in accordance with the instructions of the donors and with a plan drawn up by the Internee Committees. The issue of medical stores shall, however, be made for preference in agreement with the senior medical officers, and the latter may, in hospitals and infirmaries, waive the said instructions, if the needs of their patients so demand. Within the limits thus defined, the distribution shall always be carried out equitably.

Art. 3. Members of Internee Committees shall be allowed to go to the railway stations or other points of arrival of relief supplies near their places of internment so as to enable them to verify the quantity as well as the quality of the goods received and to make out detailed reports thereon for the donors.

Art. 4. Internee Committees shall be given the facilities necessary for verifying whether the distribution of collective relief in all subdivisions and annexes of their places of internment has been carried out in accordance with their instructions.

Art. 5. Internee Committees shall be allowed to complete, and to cause to be completed by members of the Internee Committees in labour detachments or by the senior medical officers of infirmaries and hospitals, forms or questionnaires intended for the donors, relating to collective relief supplies (distribution, requirements, quantities, etc.). Such forms and questionnaires, duly completed, shall be forwarded to the donors without delay.

Art. 6. In order to secure the regular distribution of collective relief supplies to the internees in their place of internment, and to meet any needs that may arise through the arrival of fresh parties of internees, the Internee Committees shall be allowed to create and maintain sufficient reserve stocks of collective relief. For this purpose, they shall have suitable warehouses at their disposal; each warehouse shall be provided with two locks, the Internee Committee holding the keys of one lock, and the commandant of the place of internment the keys of the other.

Art. 7. The High Contracting Parties, and the Detaining Powers in particular, shall, so far as is in any way possible and subject to the regulations governing the food supply of the population, authorize purchases of goods to be made in their territories for the distribution of collective relief to the internees. They shall likewise facilitate the transfer of funds and other financial measures of a technical or administrative nature taken for the purpose of making such purchases.

Art. 8. The foregoing provisions shall not constitute an obstacle to the right of internees to receive collective relief before their arrival in a place of internment or in the course of their transfer, nor to the possibility of representatives of the Protecting Power, or of the International Committee of the Red Cross or any other humanitarian organization giving assistance to internees and responsible for forwarding such supplies, ensuring the distribution thereof to the recipients by any other means they may deem suitable.

ANNEX III

I. Internment Card

I. INTERNMENT CARD

ANNEX III

1. Front

CIVILIAN INTERNEE MAIL		Postage free
POST CARD		
<p style="text-align: center;">IMPORTANT</p> <p>This card must be completed by each internee immediately on being interned and each time his address is altered by reason of transfer to another place of internment or to a hospital.</p> <p>This card is not the same as the special card which each internee is allowed to send to his relatives.</p>	<p>CENTRAL INFORMATION AGENCY FOR PROTECTED PERSONS</p> <p>INTERNATIONAL COMMITTEE OF THE RED CROSS</p>	

Reverse side

Write legibly and in block letters—1. Nationality		
2. Surname	3. First names (in full)	4. First name of father

5. Date of birth	6. Place of birth	
7. Occupation		
8. Address before detention		
9. Address of next of kin		

*10. Interned on : (or) Coming from (hospital, etc.) on :		
*11. State of health		

12. Present address		
13. Date	14. Signature	

*Strike out what is not applicable—Do not add any remarks—See explanations on other side of card		

(Size of internment card—10×15 cm.)

II. Letter

II. ANNEX III

LETTER

CIVILIAN INTERNEE SERVICE

Postage free

To

Street and number

Place of destination (in block capitals)

Province or Department

Country (in block capitals)

Internment address

Date and place of birth

Surname and first names

Sender:

{Size of letter — 29 x 15 cm.}

III. Correspondence Card

III. CORRESPONDENCE CARD

ANNEX III

1. Front

CIVILIAN INTERNEE MAIL

Postage free

POST CARD

To

Street and number

Place of destination (in block capitals)

Province or Department

Country (in block capitals)

Sender:

Surname and first names

Place and date of birth

Internment address

2. Reverse side

Date:

Write on the dotted lines only and as legibly as possible.

(Size of correspondence card—10×15 cm.)

INTERNATIONAL HUMANITARIAN LAW

International Committee of the Red Cross

APPENDICE

VII

Document printed from the ICRC web site on the 08.01.2008

Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), 8 June 1977.

Introduction

General title	Diplomatic Conference of Geneva of 1974-1977.
Forum of adoption	Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law applicable in Armed Conflicts
in force	yes
Entry into force	07.12.1978

The present Protocol brings mainly the following innovations:

Article 1(4) provides that armed conflicts in which peoples are fighting against colonial domination, alien occupation or racist regimes are to be considered international conflicts.

Part II (Articles 8-34) develops the rules of the First and the Second Geneva Conventions on wounded, sick and shipwrecked. It extends the protection of the Conventions to civilian medical personnel, equipment and supplies and to civilian units and transports and contains detailed provisions on medical transportation.

Part III and several chapters of Part IV (Articles 35-60) deal with the conduct of hostilities, i.e. questions which hitherto were regulated by the Hague Conventions of 1899 and 1907 and by customary international law. Their reaffirmation and development is important in view of the age of the Hague Conventions and of the new States which had no part in their elaboration. Article 43 and 44 give a new definition of armed forces and combatants. Among the most important Articles are those on the protection of the civilian population against the effects of hostilities. They contain a definition of military objectives and prohibitions of attack on civilian persons and objects. Further Articles (61-79) deal with the protection of civil defence organizations, relief actions and the treatment of persons in the power of a party to a conflict.

Part V (Articles 80-91) brings some new elements to the problem of the execution of the Conventions and the Protocol.

Meetings of forum	1st session:20.02.1974 - 29.03.1974, Geneva #2nd session:03.02.1975 - 18.04.1975 Geneva #3rd session:21.04.1976 - 11.06.1976, Geneva #4th session:17.03.1977 10.06.1977, Geneva
Date of adoption	08.06.1977
Depositary	Switzerland
Number of articles	102 + 2 annexes
Authentic text	English; Arabic; Chinese; Spanish; French; Russian

I N T E R N A T I O N A L H U M A N I T A R I A N L A W

International Committee of the Red Cross

Document printed from the ICRC web site on the 08.01.2008

Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), 8 June 1977.

Full text

PREAMBLE.

The High Contracting Parties,

Proclaiming their earnest wish to see peace prevail among peoples,

Recalling that every State has the duty, in conformity with the Charter of the United Nations, to refrain in its international relations from the threat or use of force against the sovereignty, territorial integrity or political independence of any State, or in any other manner inconsistent with the purposes of the United Nations,

Believing it necessary nevertheless to reaffirm and develop the provisions protecting the victims of armed conflicts and to supplement measures intended to reinforce their application,

Expressing their conviction that nothing in this Protocol or in the Geneva Conventions of 12 August 1949 can be construed as legitimizing or authorizing any act of aggression or any other use of force inconsistent with the Charter of the United Nations,

Reaffirming further that the provisions of the Geneva Conventions of 12 August 1949 and of this Protocol must be fully applied in all circumstances to all persons who are protected by those instruments, without any adverse distinction based on the nature or origin of the armed conflict or on the causes espoused by or attributed to the Parties to the conflict,

Have agreed on the following:

PART I. GENERAL PROVISIONS

Art 1. General principles and scope of application

1. The High Contracting Parties undertake to respect and to ensure respect for this Protocol in all circumstances.
2. In cases not covered by this Protocol or by other international agreements, civilians and combatants remain under the protection and authority of the principles of international law derived from established custom, from the principles of humanity and from dictates of public conscience.
3. This Protocol, which supplements the Geneva Conventions of 12 August 1949 for the protection of war victims, shall apply in the situations referred to in Article 2 common to those Conventions.
4. The situations referred to in the preceding paragraph include armed conflicts which peoples are fighting against colonial domination and alien occupation and against racist regimes in the exercise of their right of self-determination, as enshrined in the Charter of the United Nations and the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations.

Art 2. Definitions

For the purposes of this Protocol

(a) "First Convention", "Second Convention", "Third Convention" and "Fourth Convention" mean, respectively, the Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field of 12 August 1949; the Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Ship-wrecked Members of Armed Forces at Sea of 12 August 1949; the Geneva Convention relative to the Treatment of Prisoners of War of 12 August 1949; the Geneva Convention relative to the Protection of

Civilian Persons in Time of War of 12 August 1949; "the Conventions" means the four Geneva Conventions of 12 August 1949 for the protection of war victims;

(b) "Rules of international law applicable in armed conflict" means the rules applicable in armed conflict set forth in international agreements to which the Parties to the conflict are Parties and the generally recognized principles and rules of international law which are applicable to armed conflict;

(c) "Protecting Power" means a neutral or other State not a Party to the conflict which has been designated by a Party to the conflict and accepted by the adverse Party and has agreed to carry out the functions assigned to a Protecting Power under the Conventions and this Protocol;

(d) "Substitute" means an organization acting in place of a Protecting Power in accordance with Article 5.

Art 3. Beginning and end of application

Without prejudice to the provisions which are applicable at all times:

(a) the Conventions and this Protocol shall apply from the beginning of any situation referred to in Article 1 of this Protocol.

(b) the application of the Conventions and of this Protocol shall cease, in the territory of Parties to the conflict, on the general close of military operations and, in the case of occupied territories, on the termination of the occupation, except, in either circumstance, for those persons whose final release, repatriation or re-establishment takes place thereafter. These persons shall continue to benefit from the relevant provisions of the Conventions and of this Protocol until their final release repatriation or re-establishment.

Art 4. Legal status of the Parties to the conflict

The application of the Conventions and of this Protocol, as well as the conclusion of the agreements provided for therein, shall not affect the legal status of the Parties to the conflict. Neither the occupation of a territory nor the application of the Conventions and this Protocol shall affect the legal status of the territory in question.

Art 5. Appointment of Protecting Powers and of their substitute

1. It is the duty of the Parties to a conflict from the beginning of that conflict to secure the supervision and implementation of the Conventions and of this Protocol by the application of the system of Protecting Powers, including inter alia the designation and acceptance of those Powers, in accordance with the following paragraphs. Protecting Powers shall have the duty of safeguarding the interests of the Parties to the conflict.

2. From the beginning of a situation referred to in Article 1, each Party to the conflict shall without delay designate a Protecting Power for the purpose of applying the Conventions and this Protocol and shall, likewise without delay and for the same purpose, permit the activities of a Protecting Power which has been accepted by it as such after designation by the adverse Party.

3. If a Protecting Power has not been designated or accepted from the beginning of a situation referred to in Article 1, the International Committee of the Red Cross, without prejudice to the right of any other impartial humanitarian organization to do likewise, shall offer its good offices to the Parties to the conflict with a view to the designation without delay of a Protecting Power to which the Parties to the conflict consent. For that purpose it may inter alia ask each Party to provide it with a list of at least five States which that Party considers acceptable to act as Protecting Power on its behalf in relation to an adverse Party and ask each adverse Party to provide a list of at least five States which it would accept as the Protecting Power of the first Party; these lists shall be communicated to the Committee within two weeks after the receipt of the request; it shall compare them and seek the agreement of any proposed State named on both lists.

4. If, despite the foregoing, there is no Protecting Power, the Parties to the conflict shall accept without delay an offer which may be made by the International Committee of the Red Cross or by any other organization which offers all guarantees of impartiality and efficacy, after due consultations with the said Parties and taking into account the result of these consultations, to act as a substitute. The functioning of such a substitute is subject to the consent of the Parties to the conflict; every effort shall be made by the Parties to the conflict to facilitate the operations of the substitute in the performance of its tasks under the Conventions and this Protocol.

5. In accordance with Article 4, the designation and acceptance of Protecting Powers for the purpose of applying the Conventions and this Protocol shall not affect the legal status of the Parties to the conflict or of any territory, including occupied territory.

6. The maintenance of diplomatic relations between Parties to the conflict or the entrusting of the protection of a Party's interests and those of its nationals to a third State in accordance with the rules of international law relating to diplomatic relations is no obstacle to the designation of Protecting Powers for the purpose of applying the Conventions and this Protocol.

7. Any subsequent mention in this Protocol of a Protecting Power includes also a substitute.

Art 6. Qualified persons

1. The High Contracting Parties shall, also in peacetime, endeavour, with the assistance of the national Red Cross (Red Crescent, Red Lion and Sun) Societies, to train qualified personnel to facilitate the application of the Conventions and of this Protocol, and in particular the activities of the Protecting Powers.

2. The recruitment and training of such personnel are within domestic jurisdiction.

3. The International Committee of the Red Cross shall hold at the disposal of the High Contracting Parties the lists of persons so trained which the High Contracting Parties may have established and may have transmitted to it for that purpose.

4. The conditions governing the employment of such personnel outside the national territory shall, in each case, be the subject of special agreements between the Parties concerned.

Article 7 - Meetings

The depositary of this Protocol shall convene a meeting of the High Contracting Parties, at the request of one or more of the said Parties and upon, the approval of the majority of the said Parties, to consider general problems concerning the application of the Conventions and of the Protocol.

Part. II WOUNDED, SICK AND SHIPWRECKED

Section I : General Protection

Art 8. Terminology

For the purposes of this Protocol:

a) "Wounded" and "sick" mean persons, whether military or civilian, who, because of trauma, disease or other physical or mental disorder or disability, are in need of medical assistance or care and who refrain from any act of hostility. These terms also cover maternity cases, new-born babies and other persons who may be in need of immediate medical assistance or care, such as the infirm or expectant mothers, and who refrain from any act of hostility;

b) "Shipwrecked" means persons, whether military or civilian, who are in peril at sea or in other waters as a result of misfortune affecting them or the vessel or aircraft carrying them and who refrain from any act of hostility. These persons, provided that they continue to refrain from any act of hostility, shall continue to be considered shipwrecked during their rescue until they acquire another status under the Conventions or this Protocol;

c) "Medical personnel" means those persons assigned, by a Party to the conflict, exclusively to the medical purposes enumerated under e) or to the administration of medical units or to the operation or administration of medical transports. Such assignments may be either permanent or temporary. The term includes:

i) medical personnel of a Party to the conflict, whether military or civilian, including those described in the First and Second Conventions, and those assigned to civil defence organizations;

ii) medical personnel of national Red Cross (Red Crescent, Red Lion and Sun) Societies and other national voluntary aid societies duly recognized and authorized by a Party to the conflict;

iii) medical personnel or medical units or medical transports described in Article 9, paragraph 2.

d) "Religious personnel" means military or civilian persons, such as chaplains, who are exclusively engaged in the work of their ministry and attached:

- i) to the armed forces of a Party to the conflict;
- ii) to medical units or medical transports of a Party to the conflict;
- iii) to medical units or medical transports described in Article 9, Paragraph 2; or
- iv) to civil defence organizations of a Party to the conflict.

The attachment of religious personnel may be either permanent or temporary, and the relevant provisions mentioned under k) apply to them;

e) "Medical units" means establishments and other units, whether military or civilian, organized for medical purposes, namely the search for, collection, transportation, diagnosis or treatment - including first-aid treatment - of the wounded, sick and shipwrecked, or for the prevention of disease. The term includes for example, hospitals and other similar units, blood transfusion centres, preventive medicine centres and institutes, medical depots and the medical and pharmaceutical stores of such units. Medical units may be fixed or mobile, permanent or temporary;

f) "Medical transportation" means the conveyance by land, water or air of the wounded, sick, shipwrecked, medical personnel, religious personnel, medical equipment or medical supplies protected by the Conventions and by this Protocol;

g) "Medical transports" means any means of transportation, whether military or civilian, permanent or temporary, assigned exclusively to medical transportation and under the control of a competent authority of a Party to the conflict;

h) "Medical vehicles" means any medical transports by land;

i) "Medical ships and craft" means any medical transports by water;

j) "Medical aircraft" means any medical transports by air;

k) "Permanent medical personnel", "permanent medical units" and "permanent medical transports" mean those assigned exclusively to medical purposes for an indeterminate period. "Temporary medical personnel" "temporary medical-units" and "temporary medical transports" mean those devoted exclusively to medical purposes for limited periods during the whole of such periods. Unless otherwise specified, the terms "medical personnel", "medical units" and "medical transports" cover both permanent and temporary categories;

l) "Distinctive emblem" means the distinctive emblem of the red cross, red crescent or red lion and sun on a white ground when used for the protection of medical units and transports, or medical and religious personnel, equipment or supplies;

m) "Distinctive signal" means any signal or message specified for the identification exclusively of medical units or transports in Chapter III of Annex I to this Protocol.

Art 9. Field of application

1. This Part, the provisions of which are intended to ameliorate the condition of the wounded, sick and shipwrecked, shall apply to all those affected by a situation referred to in Article 1, without any adverse distinction founded on race, colour, sex, language, religion or belief political or other opinion, national or social origin, wealth, birth or other status, or on any other similar criteria.

2. The relevant provisions of Articles 27 and 32 of the First Convention shall apply to permanent medical units and transports (other than hospital ships, to which Article 25 of the Second Convention applies) and their personnel made available to a Party to the conflict for humanitarian purposes:

- (a) by a neutral or other State which is not a Party to that conflict;
- (b) by a recognized and authorized aid society of such a State;
- (c) by an impartial international humanitarian organization.

Art 10 Protection and care

1. All the wounded, sick and shipwrecked, to whichever Party they belong, shall be respected and protected.
2. In all circumstances they shall be treated humanely and shall receive, to the fullest extent practicable and with the least possible delay, the medical care and attention required by their condition. There shall be no distinction among them founded on any grounds other than medical ones.

Article 11 - Protection of persons

1. The physical or mental health and integrity of persons who are in the power of the adverse Party or who are interned, detained or otherwise deprived of liberty as a result of a situation referred to in Article 1 shall not be endangered by any unjustified act or omission. Accordingly, it is prohibited to subject the persons described in this Article to any medical procedure which is not indicated by the state of health of the person concerned and which is not consistent with generally accepted medical standards which would be applied under similar medical circumstances to persons who are nationals of the Party conducting the procedure and who are in no way deprived of liberty.

2. It is, in particular, prohibited to carry out on such persons, even with their consent:

- (a) physical mutilations;
- (b) medical or scientific experiments;
- (c) removal of tissue or organs for transplantation, except where these acts are justified in conformity with the conditions provided for in paragraph 1.

3. Exceptions to the prohibition in paragraph 2 (c) may be made only in the case of donations of blood for transfusion or of skin for grafting, provided that they are given voluntarily and without any coercion or inducement, and then only for therapeutic purposes, under conditions consistent with generally accepted medical standards and controls designed for the benefit of both the donor and the recipient.

4. Any wilful act or omission which seriously endangers the physical or mental health or integrity of any person who is in the power of a Party other than the one on which he depends and which either violates any of the prohibitions in paragraphs 1 and 2 or fails to comply with the requirements of paragraph 3 shall be a grave breach of this Protocol.

5. The persons described in paragraph 1 have the right to refuse any surgical operation. In case of refusal, medical personnel shall endeavour to obtain a written statement to that effect, signed or acknowledged by the patient.

6. Each Party to the conflict shall keep a medical record for every donation of blood for transfusion or skin for grafting by persons referred to in paragraph 1, if that donation is made under the responsibility of that Party. In addition, each Party to the conflict shall endeavour to keep a record of all medical procedures undertaken with respect to any person who is interned, detained or otherwise deprived of liberty as a result of a situation referred to in Article 1. These records shall be available at all times for inspection by the Protecting Power.

Art 12 Protection of medical units

1. Medical units shall be respected and protected at all times and shall not be the object of attack.
2. Paragraph 1 shall apply to civilian medical units, provided that they:
 - (a) belong to one of the Parties to the conflict;
 - (b) are recognized and authorized by the competent authority of one of the Parties to the conflict; or
 - (c) are authorized in conformity with Article 9, paragraph 2, of this Protocol or Article 27 of the First Convention.
3. The Parties to the conflict are invited to notify each other of the location of their fixed medical units. The absence of such notification shall not exempt any of the Parties from the obligation to comply with the provisions of paragraph 1.
4. Under no circumstances shall medical units be used in an attempt to shield military objectives from attack. Whenever possible, the Parties to the conflict shall ensure that medical units are so sited that attacks against military objectives do not imperil their safety.

Art 13. Discontinuance of protection of civilian medical units

1. The protection to which civilian medical units are entitled shall not cease unless they are used to commit, outside their humanitarian function, acts harmful to the enemy. Protection may, however, cease only after a warning has been given setting, whenever appropriate, a reasonable time-limit, and after such warning has remained unheeded.

2. The following shall not be considered as acts harmful to the enemy:

(a) that the personnel of the unit are equipped with light individual weapons for their own defence or for that of the wounded and sick in their charge;

(b) that the unit is guarded by a picket or by sentries or by an escort;

(c) that small arms and ammunition taken from the wounded and sick, and not yet handed to the proper service, are found in the units;

(d) that members of the armed forces or other combatants are in the unit for medical reasons.

Art 14 - Limitations on requisition of civilian medical units

1. The Occupying Power has the duty to ensure that the medical needs of the civilian population in occupied territory continue to be satisfied.

2. The Occupying Power shall not, therefore, requisition civilian medical units, their equipment, their materiel or the services of their personnel, so long as these resources are necessary for the provision of adequate medical services for the civilian population and for the continuing medical care of any wounded and sick already under treatment.

3. Provided that the general rule in paragraph 2 continues to be observed, the Occupying Power may requisition the said resources, subject to the following particular conditions:

(a) that the resources are necessary for the adequate and immediate medical treatment of the wounded and sick members of the armed forces of the Occupying Power or of prisoners of war;

(b) that the requisition continues only while such necessity exists; and

(c) that immediate arrangements are made to ensure that the medical needs of the civilian population, as well as those of any wounded and sick under treatment who are affected by the requisition, continue to be satisfied.

Art 15. Protection of civilian medical and religious personnel

1. Civilian medical personnel shall be respected and protected.

2. If needed, all available help shall be afforded to civilian medical personnel in an area where civilian medical services are disrupted by reason of combat activity.

3. The Occupying Power shall afford civilian medical personnel in occupied territories every assistance to enable them to perform, to the best of their ability, their humanitarian functions. The Occupying Power may not require that, in the performance of those functions, such personnel shall give priority to the treatment of any person except on medical grounds. They shall not be compelled to carry out tasks which are not compatible with their humanitarian mission.

4. Civilian medical personnel shall have access to any place where their services are essential, subject to such supervisory and safety measures as the relevant Party to the conflict may deem necessary.

5. Civilian religious personnel shall be respected and protected. The provisions of the Conventions and of this Protocol concerning the protection and identification of medical personnel shall apply equally to such persons.

Art 16. General protection of medical duties

1. Under no circumstances shall any person be punished for carrying out medical activities compatible with medical ethics, regardless of the person benefiting therefrom.

2. Persons engaged in medical activities shall not be compelled to perform acts or to carry out work contrary to the rules of medical ethics or to other medical rules designed for the benefit of the wounded and sick or to the provisions of the Conventions or of this Protocol, or to refrain from performing acts or from carrying out

Art 20. - Prohibition of reprisals

Reprisals against the persons and objects protected by this Part are prohibited.

SECTION II. MEDICAL TRANSPORTATION

Art 21. Medical vehicles

Medical vehicles shall be respected and protected in the same way as mobile medical units under the Conventions and this Protocol.

Art 22. Hospital ships and coastal rescue craft

1. The provisions of the Conventions relating to:
 - (a) vessels described in Articles 22, 24, 25 and 27 of the Second Convention,
 - (b) their lifeboats and small craft,
 - (c) their personnel and crews, and
 - (d) the wounded; sick and shipwrecked on board.

shall also apply where these vessels carry civilian wounded, sick and shipwrecked who do not belong to any of the categories mentioned in Article 13 of the Second Convention. Such civilians shall not, however, be subject to surrender to any Party which is not their own, or to capture at sea. If they find themselves in the power of a Party to the conflict other than their own they shall be covered by the Fourth Convention and by this Protocol.

2. The protection provided by the Conventions to vessels described in Article 25 of the Second Convention shall extend to hospital ships made available for humanitarian purposes to a Party to the conflict:
 - (a) by a neutral or other State which is not a Party to that conflict; or
 - (b) by an impartial international humanitarian organization,

provided that, in either case, the requirements set out in that Article are complied with.

3. Small craft described in Article 27 of the Second Convention shall be protected, even if the notification envisaged by that Article has not been made. The Parties to the conflict are, nevertheless, invited to inform each other of any details of such craft which will facilitate their identification and recognition.

Art 23. Other medical ships and craft

1. Medical ships and craft other than those referred to in Article 22 of this Protocol and Article 38 of the Second Convention shall, whether at sea or in other waters, be respected and protected in the same way as mobile medical units under the Conventions and this Protocol. Since this protection can only be effective if they can be identified and recognized as medical ships or craft, such vessels should be marked with the distinctive emblem and as far as possible comply with the second paragraph of Article 43 of the Second Convention.

2. The ships and craft referred to in paragraph 1 shall remain subject to the laws of war. Any warship on the surface able immediately to enforce its command may order them to stop, order them off, or make them take a certain course, and they shall obey every such command. Such ships and craft may not in any other way be diverted from their medical mission so long as they are needed for the wounded, sick and shipwrecked on board.

3. The protection provided in paragraph 1 shall cease only under the conditions set out in Articles 34 and 35 of the Second Convention. A clear refusal to obey a command given in accordance with paragraph 2 shall be an act harmful to the enemy under Article 34 of the Second Convention.

4. A Party to the conflict may notify any adverse Party as far in advance of sailing as possible of the name, description, expected time of sailing, course and estimated speed of the medical ship or craft, particularly in the case of ships of over 2,000 gross tons, and may provide any other information which would facilitate identification and recognition. The adverse Party shall acknowledge receipt of such information.

5. The provisions of Article 37 of the Second Convention shall apply to medical and religious personnel in such ships and craft.

6. The provisions of the Second Convention shall apply to the wounded, sick and shipwrecked belonging to the categories referred to in Article 13 of the Second Convention and in Article 44 of this Protocol who may be on board such medical ships and craft. Wounded, sick and shipwrecked civilians who do not belong to any of the categories mentioned in Article 13 of the Second Convention shall not be subject, at sea, either to surrender to any Party which is not their own, or to removal from such ships or craft; if they find themselves in the power of a Party to the conflict other than their own, they shall be covered by the Fourth Convention and by this Protocol.

Art 24. Protection of medical Aircraft

Medical aircraft shall be respected and protected, subject to the provisions of this Part.

Art 25. Medical aircraft in areas not controlled by an adverse Party

In and over land areas physically controlled by friendly forces, or in and over sea areas not physically controlled by an adverse Party, the respect and protection of medical aircraft of a Party to the conflict is not dependent on any agreement with an adverse Party. For greater safety, however, a Party to the conflict operating its medical aircraft in these areas may notify the adverse Party, as provided in Article 29, in particular when such aircraft are making flights bringing them within range of surface-to-air weapons systems of the adverse Party.

Art 26. Medical aircraft in contact or similar zones

1. In and over those parts of the contact zone which are physically controlled by friendly forces and in and over those areas the physical control of which is not clearly established, protection for medical aircraft can be fully effective only by prior agreement between the competent military authorities of the Parties to the conflict, as provided for in Article 29. Although, in the absence of such an agreement, medical aircraft operate at their own risk, they shall nevertheless be respected after they have been recognized as such.

2. "Contact zone" means any area on land where the forward elements of opposing forces are in contact with each other, especially where they are exposed to direct fire from the ground.

Art 27. Medical aircraft in areas controlled by an adverse Party

1. The medical aircraft of a Party to the conflict shall continue to be protected while flying over land or sea areas physically controlled by an adverse Party, provided that prior agreement to such flights has been obtained from the competent authority of that adverse Party.

2. A medical aircraft which flies over an area physically controlled by an adverse Party without, or in deviation from the terms of, an agreement provided for in paragraph 1, either through navigational error or because of an emergency affecting the safety of the flight, shall make every effort to identify itself and to inform the adverse Party of the circumstances. As soon as such medical aircraft has been recognized by the adverse Party, that Party shall make all reasonable efforts to give the order to land or to alight on water, referred to in Article 30, paragraph 1, or to take other measures to safeguard its own interests, and, in either case, to allow the aircraft time for compliance, before resorting to an attack against the aircraft.

Art 28. Restrictions on operations of medical aircraft

1. The Parties to the conflict are prohibited from using their medical aircraft to attempt to acquire any military advantage over an adverse Party. The presence of medical aircraft shall not be used in an attempt to render military objectives immune from attack.

2. Medical aircraft shall not be used to collect or transmit intelligence data and shall not carry any equipment intended for such purposes. They are prohibited from carrying any persons or cargo not included within the definition in Article 8 (6). The carrying on board of the personal effects of the occupants or of equipment intended solely to facilitate navigation, communication or identification shall not be considered as prohibited.

3. Medical aircraft shall not carry any armament except small arms and ammunition taken from the wounded, sick and shipwrecked on board and not yet handed to the proper service, and such light individual weapons as may be necessary to enable the medical personnel on board to defend themselves and the wounded, sick

and shipwrecked in their charge.

4. While carrying out the flights referred to in Articles 26 and 27, medical aircraft shall not, except by prior agreement with the adverse Party, be used to search for the wounded, sick and shipwrecked.

Art 29. Notifications and agreements concerning medical aircraft

1. Notifications under Article 25, or requests for prior agreement under Articles 26, 27, 28, paragraph 4, or 31 shall state the proposed number of medical aircraft, their flight plans and means of identification, and shall be understood to mean that every flight will be carried out in compliance with Article 28.

2. A Party which receives a notification given under Article 25 shall at once acknowledge receipt of such notification. 3. A Party which receives a request for prior agreement under Articles 25, 27, 28, paragraph 4, or 31 shall, as rapidly as possible, notify the requesting Party:

- (a) that the request is agreed to;
- (b) that the request is denied; or
- (c) of reasonable alternative proposals to the request. It may also propose prohibition or restriction of other flights in the area during the time involved. If the Party which submitted the request accepts the alternative proposals, it shall notify the other Party of such acceptance.

4. The Parties shall take the necessary measures to ensure that notifications and agreements can be made rapidly.

5. The Parties shall also take the necessary measures to disseminate rapidly the substance of any such notifications and agreements to the military units concerned and shall instruct those units regarding the means of identification that will be used by the medical aircraft in question.

Art 30. Landing and inspection of medical aircraft

1. Medical aircraft flying over areas which are physically controlled by an adverse Party, or over areas the physical control of which is not clearly established, may be ordered to land or to alight on water, as appropriate, to permit inspection in accordance with the following paragraphs. Medical aircraft shall obey any such order.

2. If such an aircraft lands or alights on water, whether ordered to do so or for other reasons, it may be subjected to inspection solely to determine the matters referred to in paragraphs 3 and 4. Any such inspection shall be commenced without delay and shall be conducted expeditiously. The inspecting Party shall not require the wounded and sick to be removed from the aircraft unless their removal is essential for the inspection. That Party shall in any event ensure that the condition of the wounded and sick is not adversely affected by the inspection or by the removal.

3. If the inspection discloses that the aircraft:

- (a) is a medical aircraft within the meaning of Article 8, sub-paragraph j),
- (b) is not in violation of the conditions prescribed in Article 28, and
- (c) has not flown without or in breach of a prior agreement where such agreement is required,

the aircraft and those of its occupants who belong to the adverse Party or to a neutral or other State not a Party to the conflict shall be authorized to continue the flight without delay.

4. If the inspection discloses that the aircraft:

- (a) is not a medical aircraft within the meaning of Article 8, sub-paragraph j),
- (b) is in violation of the conditions prescribed in Article 28, or
- (c) has flown without or in breach of a prior agreement where such agreement is required,

the aircraft may be seized. Its occupants shall be treated in conformity with the relevant provisions of the Conventions and of this Protocol. Any aircraft seized which had been assigned as a permanent medical aircraft may be used thereafter only as a medical aircraft.

Art 31. Neutral or other States not Parties to the conflict

1. Except by prior agreement, medical aircraft shall not fly over or land in the territory of a neutral or other State not a Party to the conflict. However, with such an agreement, they shall be respected throughout their

flight and also for the duration of any calls in the territory. Nevertheless they shall obey any summons to land or to alight on water, as appropriate.

2. Should a medical aircraft, in the absence of an agreement or in deviation from the terms of an agreement, fly over the territory of a neutral or other State not a Party to the conflict, either through navigational error or because of an emergency affecting the safety of the flight, it shall make every effort to give notice of the flight and to identify itself. As soon as such medical aircraft is recognized, that State shall make all reasonable efforts to give the order to land or to alight on water referred to in Article 30, paragraph 1, or to take other measures to safeguard its own interests, and, in either case, to allow the aircraft time for compliance, before resorting to an attack against the aircraft.

3. If a medical aircraft, either by agreement or in the circumstances mentioned in paragraph 2, lands or alights on water in the territory of a neutral or other State not Party to the conflict, whether ordered to do so or for other reasons, the aircraft shall be subject to inspection for the purposes of determining whether it is in fact a medical aircraft. The inspection shall be commenced without delay and shall be conducted expeditiously. The inspecting Party shall not require the wounded and sick of the Party operating the aircraft to be removed from it unless their removal is essential for the inspection. The inspecting Party shall in any event ensure that the condition of the wounded and sick is not adversely affected by the inspection or the removal. If the inspection discloses that the aircraft is in fact a medical aircraft, the aircraft with its occupants, other than those who must be detained in accordance with the rules of international law applicable in armed conflict, shall be allowed to resume its flight, and reasonable facilities shall be given for the continuation of the flight. If the inspection discloses that the aircraft is not a medical aircraft, it shall be seized and the occupants treated in accordance with paragraph 4.

4. The wounded, sick and shipwrecked disembarked, otherwise than temporarily, from a medical aircraft with the consent of the local authorities in the territory of a neutral or other State not a Party to the conflict shall, unless agreed otherwise between that State and the Parties to the conflict, be detained by that State where so required by the rules of international law applicable in armed conflict, in such a manner that they cannot again take part in the hostilities. The cost of hospital treatment and internment shall be borne by the State to which those persons belong.

5. Neutral or other States not Parties to the conflict shall apply any conditions and restrictions on the passage of medical aircraft over, or on the landing of medical aircraft in, their territory equally to all Parties to the conflict.

Section III Missing and Dead Persons

Art 32. General principle

In the implementation of this Section, the activities of the High Contracting Parties, of the Parties to the conflict and of the international humanitarian organizations mentioned in the Conventions and in this Protocol shall be prompted mainly by the right of families to know the fate of their relatives.

Art 33. Missing persons

1. As soon as circumstances permit, and at the latest from the end of active hostilities, each Party to the conflict shall search for the persons who have been reported missing by an adverse Party. Such adverse Party shall transmit all relevant information concerning such persons in order to facilitate such searches.

2. In order to facilitate the gathering of information pursuant to the preceding paragraph, each Party to the conflict shall, with respect to persons who would not receive more favourable consideration under the Conventions and this Protocol:

(a) record the information specified in Article 138 of the Fourth Convention in respect of such persons who have been detained, imprisoned or otherwise held in captivity for more than two weeks as a result of hostilities or occupation, or who have died during any period of detention;

(b) to the fullest extent possible, facilitate and, if need be, carry out the search for and the recording of information concerning such persons if they have died in other circumstances as a result of hostilities or occupation.

3. Information concerning persons reported missing pursuant to paragraph 1 and requests for such information shall be transmitted either directly or through the Protecting Power or the Central Tracing Agency of the International Committee of the Red Cross or national Red Cross (Red Crescent, Red Lion and Sun) Societies. Where the information is not transmitted through the International Committee of the Red Cross and its Central Tracing Agency, each Party to the conflict shall ensure that such information is also supplied to the

Central Tracing Agency.

4. The Parties to the conflict shall endeavour to agree on arrangements for teams to search for, identify and recover the dead from battlefield areas, including arrangements, if appropriate, for such teams to be accompanied by personnel of the adverse Party while carrying out these missions in areas controlled by the adverse Party. Personnel of such teams shall be respected and protected while exclusively carrying out these duties.

Art 34. Remains of deceased

1. The remains of persons who have died for reasons related to occupation or in detention resulting from occupation or hostilities and those of persons not nationals of the country in which they have died as a result of hostilities shall be respected, and the gravesites of all such persons shall be respected, maintained and marked as provided for in Article 130 of the Fourth Convention, where their remains or gravesites would not receive more favourable consideration under the Conventions and this Protocol.

2. As soon as circumstances and the relations between the adverse Parties permit, the High Contracting Parties in whose territories graves and, as the case may be, other locations of the remains of persons who have died as a result of hostilities or during occupation or in detention are situated, shall conclude agreements in order:

- (a) to facilitate access to the gravesites by relatives of the deceased and by representatives of official graves registration services and to regulate the practical arrangements for such access;
- (b) to protect and maintain such gravesites permanently;
- (c) to facilitate the return of the remains of the deceased and of personal effects to the home country upon its request or, unless that country objects, upon the request of the next of kin.

3. In the absence of the agreements provided for in paragraph 2 (b) or (c) and if the home country or such deceased is not willing to arrange at its expense for the maintenance of such gravesites, the High Contracting Party in whose territory the gravesites are situated may offer to facilitate the return of the remains of the deceased to the home country. Where such an offer has not been accepted the High Contracting Party may, after the expiry of five years from the date of the offer and upon due notice to the home country, adopt the arrangements laid down in its own laws relating to cemeteries and graves.

4. A High Contracting Party in whose territory the grave sites referred to in this Article are situated shall be permitted to exhume the remains only:

- (a) in accordance with paragraphs 2 (c) and 3, or
- (b) where exhumation is a matter of overriding public necessity, including cases of medical and investigative necessity, in which case the High Contracting Party shall at all times respect the remains, and shall give notice to the home country or its intention to exhume the remains together with details of the intended place of reinterment.

Part III. Methods and Means of Warfare Combatant and Prisoners-Of-War

Section I. Methods and Means of Warfare

Art 35. Basic rules

1. In any armed conflict, the right of the Parties to the conflict to choose methods or means of warfare is not unlimited.

2. It is prohibited to employ weapons, projectiles and material and methods of warfare of a nature to cause superfluous injury or unnecessary suffering.

3. It is prohibited to employ methods or means of warfare which are intended, or may be expected, to cause widespread, long-term and severe damage to the natural environment.

Art 36. New weapons

In the study, development, acquisition or adoption of a new weapon, means or method of warfare, a High Contracting Party is under an obligation to determine whether its employment would, in some or all circumstances, be prohibited by this Protocol or by any other rule of international law applicable to the High Contracting Party.

Art 37. Prohibition of Perfidy

1. It is prohibited to kill, injure or capture an adversary by resort to perfidy. Acts inviting the confidence of an adversary to lead him to believe that he is entitled to, or is obliged to accord, protection under the rules of international law applicable in armed conflict, with intent to betray that confidence, shall constitute perfidy. The following acts are examples of perfidy:

- (a) the feigning of an intent to negotiate under a flag of truce or of a surrender;
- (b) the feigning of an incapacitation by wounds or sickness;
- (c) the feigning of civilian, non-combatant status; and
- (d) the feigning of protected status by the use of signs, emblems or uniforms of the United Nations or of neutral or other States not Parties to the conflict.

2. Ruses of war are not prohibited. Such ruses are acts which are intended to mislead an adversary or to induce him to act recklessly but which infringe no rule of international law applicable in armed conflict and which are not perfidious because they do not invite the confidence of an adversary with respect to protection under that law. The following are examples of such ruses: the use of camouflage, decoys, mock operations and misinformation.

Art 38. Recognized emblems

1. It is prohibited to make improper use of the distinctive emblem of the red cross, red crescent or red lion and sun or of other emblems, signs or signals provided for by the Conventions or by this Protocol. It is also prohibited to misuse deliberately in an armed conflict other internationally recognized protective emblems, signs or signals, including the flag of truce, and the protective emblem of cultural property.

2. It is prohibited to make use of the distinctive emblem of the United Nations, except as authorized by that Organization.

Art 39. Emblems of nationality

1. It is prohibited to make use in an armed conflict of the flags or military emblems, insignia or uniforms of neutral or other States not Parties to the conflict.

2. It is prohibited to make use of the flags or military emblems, insignia or uniforms of adverse Parties while engaging in attacks or in order to shield, favour, protect or impede military operations.

3. Nothing in this Article or in Article 37, paragraph 1 (d), shall affect the existing generally recognized rules of international law applicable to espionage or to the use of flags in the conduct of armed conflict at sea.

Art 40. Quarter

It is prohibited to order that there shall be no survivors, to threaten an adversary therewith or to conduct hostilities on this basis.

Art 41. Safeguard of an enemy hors de combat

1. A person who is recognized or who, in the circumstances, should be recognized to be hors de combat shall not be made the object of attack.

2. A person is hors de combat if:

- (a) he is in the power of an adverse Party;
- (b) he clearly expresses an intention to surrender; or
- (c) he has been rendered unconscious or is otherwise incapacitated by wounds or sickness, and therefore is incapable of defending himself;

provided that in any of these cases he abstains from any hostile act and does not attempt to escape.

3. When persons entitled to protection as prisoners of war have fallen into the power of an adverse Party

under unusual conditions of combat which prevent their evacuation as provided for in Part III, Section I, of the Third Convention, they shall be released and all feasible precautions shall be taken to ensure their safety.

Article 42 - Occupants of aircraft

1. No person parachuting from an aircraft in distress shall be made the object of attack during his descent.
2. Upon reaching the ground in territory controlled by an adverse Party, a person who has parachuted from an aircraft in distress shall be given an opportunity to surrender before being made the object of attack, unless it is apparent that he is engaging in a hostile act.
3. Airborne troops are not protected by this Article.

Section II. Combatants and Prisoners of War

Art 43. Armed forces

1. The armed forces of a Party to a conflict consist of all organized armed forces, groups and units which are under a command responsible to that Party for the conduct or its subordinates, even if that Party is represented by a government or an authority not recognized by an adverse Party. Such armed forces shall be subject to an internal disciplinary system which, inter alia, shall enforce compliance with the rules of international law applicable in armed conflict.
2. Members of the armed forces of a Party to a conflict (other than medical personnel and chaplains covered by Article 33 of the Third Convention) are combatants, that is to say, they have the right to participate directly in hostilities.
3. Whenever a Party to a conflict incorporates a paramilitary or armed law enforcement agency into its armed forces it shall so notify the other Parties to the conflict.

Art 44. Combatants and prisoners of war

1. Any combatant, as defined in Article 43, who falls into the power of an adverse Party shall be a prisoner of war.
2. While all combatants are obliged to comply with the rules of international law applicable in armed conflict, violations of these rules shall not deprive a combatant of his right to be a combatant or, if he falls into the power of an adverse Party, of his right to be a prisoner of war, except as provided in paragraphs 3 and 4.
3. In order to promote the protection of the civilian population from the effects of hostilities, combatants are obliged to distinguish themselves from the civilian population while they are engaged in an attack or in a military operation preparatory to an attack. Recognizing, however, that there are situations in armed conflicts where, owing to the nature of the hostilities an armed combatant cannot so distinguish himself, he shall retain his status as a combatant, provided that, in such situations, he carries his arms openly:
 - (a) during each military engagement, and
 - (b) during such time as he is visible to the adversary while he is engaged in a military deployment preceding the launching of an attack in which he is to participate.

Acts which comply with the requirements of this paragraph shall not be considered as perfidious within the meaning of Article 37, paragraph 1 (c).

4. A combatant who falls into the power of an adverse Party while failing to meet the requirements set forth in the second sentence of paragraph 3 shall forfeit his right to be a prisoner of war, but he shall, nevertheless, be given protections equivalent in all respects to those accorded to prisoners of war by the Third Convention and by this Protocol. This protection includes protections equivalent to those accorded to prisoners of war by the Third Convention in the case where such a person is tried and punished for any offences he has committed.
5. Any combatant who falls into the power of an adverse Party while not engaged in an attack or in a military operation preparatory to an attack shall not forfeit his rights to be a combatant and a prisoner of war by virtue of his prior activities.

6. This Article is without prejudice to the right of any person to be a prisoner of war pursuant to Article 4 of the Third Convention.

7. This Article is not intended to change the generally accepted practice of States with respect to the wearing of the uniform by combatants assigned to the regular, uniformed armed units of a Party to the conflict.

8. In addition to the categories of persons mentioned in Article 13 of the First and Second Conventions, all members of the armed forces of a Party to the conflict, as defined in Article 43 of this Protocol, shall be entitled to protection under those Conventions if they are wounded or sick or, in the case of the Second Convention, shipwrecked at sea or in other waters.

Art 45. Protection of persons who have taken part in hostilities

1. A person who takes part in hostilities and falls into the power of an adverse Party shall be presumed to be a prisoner of war, and therefore shall be protected by the Third Convention, if he claims the status of prisoner of war, or if he appears to be entitled to such status, or if the Party on which he depends claims such status on his behalf by notification to the detaining Power or to the Protecting Power. Should any doubt arise as to whether any such person is entitled to the status of prisoner of war, he shall continue to have such status and, therefore, to be protected by the Third Convention and this Protocol until such time as his status has been determined by a competent tribunal.

2. If a person who has fallen into the power of an adverse Party is not held as a prisoner of war and is to be tried by that Party for an offence arising out of the hostilities, he shall have the right to assert his entitlement to prisoner-of-war status before a judicial tribunal and to have that question adjudicated. Whenever possible under the applicable procedure, this adjudication shall occur before the trial for the offence. The representatives of the Protecting Power shall be entitled to attend the proceedings in which that question is adjudicated, unless, exceptionally, the proceedings are held in camera in the interest of State security. In such a case the detaining Power shall advise the Protecting Power accordingly.

3. Any person who has taken part in hostilities, who is not entitled to prisoner-of-war status and who does not benefit from more favourable treatment in accordance with the Fourth Convention shall have the right at all times to the protection of Article 75 of this Protocol. In occupied territory, any such person, unless he is held as a spy, shall also be entitled, notwithstanding Article 5 of the Fourth Convention, to his rights of communication under that Convention.

Art 46. Spies

1. Notwithstanding any other provision of the Conventions or of this Protocol, any member of the armed forces of a Party to the conflict who falls into the power of an adverse Party while engaging in espionage shall not have the right to the status of prisoner of war and may be treated as a spy.

2. A member of the armed forces of a Party to the conflict who, on behalf of that Party and in territory controlled by an adverse Party, gathers or attempts to gather information shall not be considered as engaging in espionage if, while so acting, he is in the uniform of his armed forces.

3. A member of the armed forces of a Party to the conflict who is a resident of territory occupied by an adverse Party and who, on behalf of the Party on which he depends, gathers or attempts to gather information of military value within that territory shall not be considered as engaging in espionage unless he does so through an act of false pretences or deliberately in a clandestine manner. Moreover, such a resident shall not lose his right to the status of prisoner of war and may not be treated as a spy unless he is captured while engaging in espionage.

4. A member of the armed forces of a Party to the conflict who is not a resident of territory occupied by an adverse Party and who has engaged in espionage in that territory shall not lose his right to the status of prisoner of war and may not be treated as a spy unless he is captured before he has rejoined the armed forces to which he belongs.

Art 47. Mercenaries

1. A mercenary shall not have the right to be a combatant or a prisoner of war.

2. A mercenary is any person who:

- (a) is specially recruited locally or abroad in order to fight in an armed conflict;
- (b) does, in fact, take a direct part in the hostilities;
- (c) is motivated to take part in the hostilities essentially by the desire for private gain and, in fact, is promised, by or on behalf of a Party to the conflict, material compensation substantially in excess of that promised or paid to combatants of similar ranks and functions in the armed forces of that Party;
- (d) is neither a national of a Party to the conflict nor a resident of territory controlled by a Party to the conflict;
- (e) is not a member of the armed forces of a Party to the conflict; and
- (f) has not been sent by a State which is not a Party to the conflict on official duty as a member of its armed forces.

Part IV. Civilian Population

Section I. General Protection Against Effects of Hostilities

Chapter I. Basic rule and field of application

Art 48. Basic rule

In order to ensure respect for and protection of the civilian population and civilian objects, the Parties to the conflict shall at all times distinguish between the civilian population and combatants and between civilian objects and military objectives and accordingly shall direct their operations only against military objectives.

Art 49. Definition of attacks and scope of application

1. "Attacks" means acts of violence against the adversary, whether in offence or in defence.
2. The provisions of this Protocol with respect to attacks apply to all attacks in whatever territory conducted, including the national territory belonging to a Party to the conflict but under the control of an adverse Party
3. The provisions of this section apply to any land, air or sea warfare which may affect the civilian population, individual civilians or civilian objects on land. They further apply to all attacks from the sea or from the air against objectives on land but do not otherwise affect the rules of international law applicable in armed conflict at sea or in the air.
4. The provisions of this section are additional to the rules concerning humanitarian protection contained in the Fourth Convention, particularly in part II thereof, and in other international agreements binding upon the High Contracting Parties, as well as to other rules of international law relating to the protection of civilians and civilian objects on land, at sea or in the air against the effects of hostilities.

Chapter II. Civilians and civilian population

Art 50. Definition of civilians and civilian population

1. A civilian is any person who does not belong to one of the categories of persons referred to in Article 4 (A) (1), (2), (3) and (6) of the Third Convention and in Article 43 of this Protocol. In case of doubt whether a person is a civilian, that person shall be considered to be a civilian.
2. The civilian population comprises all persons who are civilians.
3. The presence within the civilian population of individuals who do not come within the definition of civilians does not deprive the population of its civilian character.

Art 51. - Protection of the civilian population

1. The civilian population and individual civilians shall enjoy general protection against dangers arising from military operations. To give effect to this protection, the following rules, which are additional to other applicable rules of international law, shall be observed in all circumstances.
2. The civilian population as such, as well as individual civilians, shall not be the object of attack. Acts or threats of violence the primary purpose of which is to spread terror among the civilian population are prohibited.

3. Civilians shall enjoy the protection afforded by this section, unless and for such time as they take a direct part in hostilities.

4. Indiscriminate attacks are prohibited. Indiscriminate attacks are:

- (a) those which are not directed at a specific military objective;
- (b) those which employ a method or means of combat which cannot be directed at a specific military objective; or
- (c) those which employ a method or means of combat the effects of which cannot be limited as required by this Protocol;

and consequently, in each such case, are of a nature to strike military objectives and civilians or civilian objects without distinction.

5. Among others, the following types of attacks are to be considered as indiscriminate:

- (a) an attack by bombardment by any methods or means which treats as a single military objective a number of clearly separated and distinct military objectives located in a city, town, village or other area containing a similar concentration of civilians or civilian objects;

and

- (b) an attack which may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated.

6. Attacks against the civilian population or civilians by way of reprisals are prohibited.

7. The presence or movements of the civilian population or individual civilians shall not be used to render certain points or areas immune from military operations, in particular in attempts to shield military objectives from attacks or to shield, favour or impede military operations. The Parties to the conflict shall not direct the movement of the civilian population or individual civilians in order to attempt to shield military objectives from attacks or to shield military operations.

8. Any violation of these prohibitions shall not release the Parties to the conflict from their legal obligations with respect to the civilian population and civilians, including the obligation to take the precautionary measures provided for in Article 57.

Chapter III. Civilian objects

Art 52. General Protection of civilian objects

1. Civilian objects shall not be the object of attack or of reprisals. Civilian objects are all objects which are not military objectives as defined in paragraph 2.

2. Attacks shall be limited strictly to military objectives. In so far as objects are concerned, military objectives are limited to those objects which by their nature, location, purpose or use make an effective contribution to military action and whose total or partial destruction, capture or neutralization, in the circumstances ruling at the time, offers a definite military advantage.

3. In case of doubt whether an object which is normally dedicated to civilian purposes, such as a place of worship, a house or other dwelling or a school, is being used to make an effective contribution to military action, it shall be presumed not to be so used.

Art 53. Protection of cultural objects and of places of worship

Without prejudice to the provisions of the Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict of 14 May 1954, and of other relevant international instruments, it is prohibited:

- (a) to commit any acts of hostility directed against the historic monuments, works of art or places of worship which constitute the cultural or spiritual heritage of peoples;
- (b) to use such objects in support of the military effort;
- (c) to make such objects the object of reprisals.

Art 54. Protection of objects indispensable to the survival of the civilian population

Starvation of civilians as a method of warfare is prohibited.

It is prohibited to attack, destroy, remove or render useless objects indispensable to the survival of the civilian population, such as food-stuffs, agricultural areas for the production of food-stuffs, crops, livestock, drinking water installations and supplies and irrigation works, for the specific purpose of denying them for their sustenance value to the civilian population or to the adverse Party, whatever the motive, whether in order to starve out civilians, to cause them to move away, or for any other motive.

The prohibitions in paragraph 2 shall not apply to such of the objects covered by it as are used by an adverse Party:

- a) as sustenance solely for the members of its armed forces; or
- b) if not as sustenance, then in direct support of military action, provided, however, that in no event shall actions against these objects be taken which may be expected to leave the civilian population with such inadequate food or water as to cause its starvation or force its movement.

These objects shall not be made the object of reprisals.

In recognition of the vital requirements of any Party to the conflict in the defence of its national territory against invasion, derogation from the prohibitions contained in paragraph 2 may be made by a Party to the conflict within such territory under its own control where required by imperative military necessity.

Article 55. Protection of the natural environment

Care shall be taken in warfare to protect the natural environment against widespread, long-term and severe damage. This protection includes a prohibition of the use of methods or means of warfare which are intended or may be expected to cause such damage to the natural environment and thereby to prejudice the health or survival of the population.

Attacks against the natural environment by way of reprisals are prohibited.

Article 56. Protection of works and installations containing dangerous forces

Works or installations containing dangerous forces, namely dams, dykes and nuclear electrical generating stations, shall not be made the object of attack, even where these objects are military objectives, if such attack may cause the release of dangerous forces and consequent severe losses among the civilian population. Other military objectives located at or in the vicinity of these works or installations shall not be made the object of attack if such attack may cause the release of dangerous forces from the works or installations and consequent severe losses among the civilian population.

The special protection against attack provided by paragraph 1 shall cease:

- a) for a dam or a dyke only if it is used for other than its normal function and in regular, significant and direct support of military operations and if such attack is the only feasible way to terminate such support;
- b) for a nuclear electrical generating station only if it provides electric power in regular, significant and direct support of military operations and if such attack is the only feasible way to terminate such support;
- c) for other military objectives located at or in the vicinity of these works or installations only if they are used in regular, significant and direct support of military operations and if such attack is the only feasible way to terminate such support.

In all cases, the civilian population and individual civilians shall remain entitled to all the protection accorded them by international law, including the protection of the precautionary measures provided for in Article 57. If the protection ceases and any of the works, installations or military objectives mentioned in paragraph 1 is attacked, all practical precautions shall be taken to avoid the release of the dangerous forces.

It is prohibited to make any of the works, installations or military objectives mentioned in paragraph 1 the object of reprisals.

The Parties to the conflict shall endeavour to avoid locating any military objectives in the vicinity of the works or installations mentioned in paragraph 1. Nevertheless, installations erected for the sole purpose of defending the protected works or installations from attack are permissible and shall not themselves be made the object of attack, provided that they are not used in hostilities except for defensive actions necessary to respond to attacks against the protected works or installations and that their armament is limited to weapons capable only of repelling hostile action against the protected works or installations.

6. The High Contracting Parties and the Parties to the conflict are urged to conclude further agreements among themselves to provide additional protection for objects containing dangerous forces.

7. In order to facilitate the identification of the objects protected by this article, the Parties to the conflict may mark them with a special sign consisting of a group of three bright orange circles placed on the same axis, as specified in Article 16 of Annex I to this Protocol [Article 17 of Amended Annex]. The absence of such marking in no way relieves any Party to the conflict of its obligations under this Article.

Chapter IV. Precautionary measures

Art 57. Precautions in attack

1. In the conduct of military operations, constant care shall be taken to spare the civilian population, civilians and civilian objects.

2. With respect to attacks, the following precautions shall be taken:

(a) those who plan or decide upon an attack shall:

(i) do everything feasible to verify that the objectives to be attacked are neither civilians nor civilian objects and are not subject to special protection but are military objectives within the meaning of paragraph 2 of Article 52 and that it is not prohibited by the provisions of this Protocol to attack them;

(ii) take all feasible precautions in the choice of means and methods of attack with a view to avoiding, and in any event to minimizing, incidental loss of civilian life, injury to civilians and damage to civilian objects;

(iii) refrain from deciding to launch any attack which may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated;

(b) an attack shall be cancelled or suspended if it becomes apparent that the objective is not a military one or is subject to special protection or that the attack may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated;

(c) effective advance warning shall be given of attacks which may affect the civilian population, unless circumstances do not permit.

3. When a choice is possible between several military objectives for obtaining a similar military advantage, the objective to be selected shall be that the attack on which may be expected to cause the least danger to civilian lives and to civilian objects.

4. In the conduct of military operations at sea or in the air, each Party to the conflict shall, in conformity with its rights and duties under the rules of international law applicable in armed conflict, take all reasonable precautions to avoid losses of civilian lives and damage to civilian objects.

5. No provision of this article may be construed as authorizing any attacks against the civilian population, civilians or civilian objects.

Art 58. Precautions against the effects of attacks

The Parties to the conflict shall, to the maximum extent feasible:

(a) without prejudice to Article 49 of the Fourth Convention, endeavour to remove the civilian population, individual civilians and civilian objects under their control from the vicinity of military objectives;

(b) avoid locating military objectives within or near densely populated areas;

(c) take the other necessary precautions to protect the civilian population, individual civilians and civilian objects under their control against the dangers resulting from military operations.

Chapter V. Localities and zones under special protection

Art 59. Non-defended localities

1. It is prohibited for the Parties to the conflict to attack, by any means whatsoever, non-defended localities.

2. The appropriate authorities of a Party to the conflict may declare as a non-defended locality any inhabited place near or in a zone where armed forces are in contact which is open for occupation by an adverse Party.

Such a locality shall fulfil the following conditions:

(a) all combatants, as well as mobile weapons and mobile military equipment must have been evacuated;

(b) no hostile use shall be made of fixed military installations or establishments;

- (c) no acts of hostility shall be committed by the authorities or by the population; and
- (d) no activities in support of military operations shall be undertaken.

3. The presence, in this locality, of persons specially protected under the Conventions and this Protocol, and of police forces retained for the sole purpose of maintaining law and order, is not contrary to the conditions laid down in paragraph 2.

4. The declaration made under paragraph 2 shall be addressed to the adverse Party and shall define and describe, as precisely as possible, the limits of the non-defended locality. The Party to the conflict to which the declaration is addressed shall acknowledge its receipt and shall treat the locality as a non-defended locality unless the conditions laid down in paragraph 2 are not in fact fulfilled, in which event it shall immediately so inform the Party making the declaration. Even if the conditions laid down in paragraph 2 are not fulfilled, the locality shall continue to enjoy the protection provided by the other provisions of this Protocol and the other rules of international law applicable in armed conflict.

5. The Parties to the conflict may agree on the establishment of non-defended localities even if such localities do not fulfil the conditions laid down in paragraph 2. The agreement should define and describe, as precisely as possible, the limits of the non-defended locality; if necessary, it may lay down the methods of supervision.

6. The Party which is in control of a locality governed by such an agreement shall mark it, so far as possible, by such signs as may be agreed upon with the other Party, which shall be displayed where they are clearly visible, especially on its perimeter and limits and on highways.

7. A locality loses its status as a non-defended locality when it ceases to fulfil the conditions laid down in paragraph 2 or in the agreement referred to in paragraph 5. In such an eventuality, the locality shall continue to enjoy the protection provided by the other provisions of this Protocol and the other rules of international law applicable in armed conflict.

Art 60. Demilitarized zones

1. It is prohibited for the Parties to the conflict to extend their military operations to zones on which they have conferred by agreement the status of demilitarized zone, if such extension is contrary to the terms of this agreement.

2. The agreement shall be an express agreement, may be concluded verbally or in writing, either directly or through a Protecting Power or any impartial humanitarian organization, and may consist of reciprocal and concordant declarations. The agreement may be concluded in peacetime, as well as after the outbreak of hostilities, and should define and describe, as precisely as possible, the limits of the demilitarized zone and, if necessary, lay down the methods of supervision.

3. The subject of such an agreement shall normally be any zone which fulfils the following conditions:

- (a) all combatants, as well as mobile weapons and mobile military equipment, must have been evacuated;
- (b) no hostile use shall be made of fixed military installations or establishments;
- (c) no acts of hostility shall be committed by the authorities or by the population; and
- (d) any activity linked to the military effort must have ceased.

The Parties to the conflict shall agree upon the interpretation to be given to the condition laid down in subparagraph (d) and upon persons to be admitted to the demilitarized zone other than those mentioned in paragraph 4.

4. The presence, in this zone, of persons specially protected under the Conventions and this Protocol, and of police forces retained for the sole purpose of maintaining law and order, is not contrary to the conditions laid down in paragraph 3.

5. The Party which is in control of such a zone shall mark it, so far as possible, by such signs as may be agreed upon with the other Party, which shall be displayed where they are clearly visible, especially on its perimeter and limits and on highways.

6. If the fighting draws near to a demilitarized zone, and if the Parties to the conflict have so agreed, none of them may use the zone for purposes related to the conduct of military operations or unilaterally revoke its status.

7. If one of the Parties to the conflict commits a material breach of the provisions of paragraphs 3 or 6, the other Party shall be released from its obligations under the agreement conferring upon the zone the status of

demilitarized zone. In such an eventuality, the zone loses its status but shall continue to enjoy the protection provided by the other provisions of this Protocol and the other rules of international law applicable in armed conflict.

Chapter VI. Civil defence

Art 61. - Definitions and scope

For the purpose of this Protocol:

1) "Civil defence" means the performance of some or all of the undermentioned humanitarian tasks intended to protect the civilian population against the dangers, and to help it to recover from the immediate effects, of hostilities or disasters and also to provide the conditions necessary for its survival. These tasks are:

- a) warning;
- b) evacuation;
- c) management of shelters;
- d) management of blackout measures;
- e) rescue;
- f) medical services, including first aid, and religious assistance;
- g) fire-fighting;
- h) detection and marking of danger areas;
- i) decontamination and similar protective measures;
- j) provision of emergency accommodation and supplies;
- k) emergency assistance in the restoration and maintenance of order in distressed areas;
- l) emergency repair of indispensable public utilities;
- m) emergency disposal of the dead;
- n) assistance in the preservation of objects essential for survival;
- o) complementary activities necessary to carry out any of the tasks mentioned above, including, but not limited to, planning and organization;

2) "Civil defence organizations" means those establishments and other units which are organized or authorized by the competent authorities of a Party to the conflict to perform any of the tasks mentioned under (1), and which are assigned and devoted exclusively to such tasks; (3) "Personnel" of civil defence organizations means those persons assigned by a Party to the conflict exclusively to the performance of the tasks mentioned under (1), including personnel assigned by the competent authority of that Party exclusively to the administration of these organizations;

4) "Matériel" of civil defence organizations means equipment, supplies and transports used by these organizations for the performance of the tasks mentioned under (1).

Art 62. General protection

1. Civilian civil defence organizations and their personnel shall be respected and protected, subject to the provisions of this Protocol, particularly the provisions of this section. They shall be entitled to perform their civil defence tasks except in case of imperative military necessity.

2. The provisions of paragraph 1 shall also apply to civilians who, although not members of civilian civil defence organizations, respond to an appeal from the competent authorities and perform civil defence tasks under their control.

3. Buildings and matériel used for civil defence purposes and shelters provided for the civilian population are covered by Article 52. Objects used for civil defence purposes may not be destroyed or diverted from their proper use except by the Party to which they belong.

Art 63. Civil defence in occupied territories

1. In occupied territories, civilian civil defence organizations shall receive from the authorities the facilities necessary for the performance of their tasks. In no Circumstances shall their personnel be compelled to perform activities which would interfere with the proper performance of these tasks. The Occupying Power shall not change the structure or personnel of such organizations in any way which might jeopardize the efficient performance of their mission. These organizations shall not be required to give priority to the nationals or interests of that Power.

2. The Occupying Power shall not compel, coerce or induce civilian civil defence organizations to perform their tasks in any manner prejudicial to the interests of the civilian population.
3. The Occupying Power may disarm civil defence personnel for reasons of security.
4. The Occupying Power shall neither divert from their proper use nor requisition buildings or matériel belonging to or used by civil defence organizations if such diversion or requisition would be harmful to the civilian population.
5. Provided that the general rule in paragraph 4 continues to be observed, the Occupying Power may requisition or divert these resources, subject to the following particular conditions:
 - (a) that the buildings or matériel are necessary for other needs of the civilian population; and
 - (b) that the requisition or diversion continues only while such necessity exists.
6. The Occupying Power shall neither divert nor requisition shelters provided for the use of the civilian population or needed by such population.

Art 64. Civilian civil defence organizations of neutral or other States not Parties to the conflict and international co-ordinating organizations

1. Articles 62, 63, 65 and 66 shall also apply to the personnel and matériel of civilian civil defence organizations of neutral or other States not Parties to the conflict which perform civil defence tasks mentioned in Article 61 in the territory of a Party to the conflict, with the consent and under the control of that Party. Notification of such assistance shall be given as soon as possible to any adverse Party concerned. In no circumstances shall this activity be deemed to be an interference in the conflict. This activity should, however, be performed with due regard to the security interests of the Parties to the conflict concerned.
2. The Parties to the conflict receiving the assistance referred to in paragraph 1 and the High Contracting Parties granting it should facilitate international co-ordination of such civil defence actions when appropriate. In such cases the relevant international organizations are covered by the provisions of this Chapter.
3. In occupied territories, the Occupying Power may only exclude or restrict the activities of civilian civil defence organizations of neutral or other States not Parties to the conflict and of international co-ordinating organizations if it can ensure the adequate performance of civil defence tasks from its own resources or those of the occupied territory.

Art 65. Cessation of protection

1. The protection to which civilian civil defence organizations, their personnel, buildings, shelters and matériel are entitled shall not cease unless they commit or are used to commit, outside their proper tasks, acts harmful to the enemy. Protection may, however, cease only after a warning has been given setting, whenever appropriate, a reasonable time-limit, and after such warning has remained unheeded.
2. The following shall not be considered as acts harmful to the enemy:
 - (a) that civil defence tasks are carried out under the direction or control of military authorities;
 - (b) that civilian civil defence personnel co-operate with military personnel in the performance of civil defence tasks, or that some military personnel are attached to civilian civil defence organizations;
 - (c) that the performance of civil defence tasks may incidentally benefit military victims, particularly those who are hors de combat.
3. It shall also not be considered as an act harmful to the enemy that civilian civil defence personnel bear light individual weapons for the purpose of maintaining order or for self-defence. However, in areas where land fighting is taking place or is likely to take place, the Parties to the conflict shall undertake the appropriate measures to limit these weapons to handguns, such as pistols or revolvers, in order to assist in distinguishing between civil defence personnel and combatants. Although civil defence personnel bear other light individual weapons in such areas, they shall nevertheless be respected and protected as soon as they have been recognized as such.
4. The formation of civilian civil defence organizations along military lines, and compulsory service in them, shall also not deprive them of the protection conferred by this Chapter.

Art 66. Identification

1. Each Party to the conflict shall endeavour to ensure that its civil defence organizations, their personnel, buildings and matériel are identifiable while they are exclusively devoted to the performance of civil defence tasks. Shelters provided for the civilian population should be similarly identifiable.
2. Each Party to the conflict shall also endeavour to adopt and implement methods and procedures which will make it possible to recognize civilian shelters as well as civil defence personnel, buildings and matériel on which the international distinctive sign of civil defence is displayed.
3. In occupied territories and in areas where fighting is taking place or is likely to take place, civilian civil defence personnel should be recognizable by the international distinctive sign of civil defence and by an identity card certifying their status.
4. The international distinctive sign of civil defence is an equilateral blue triangle on an orange ground when used for the protection of civil defence organizations, their personnel, buildings and matériel and for civilian shelters.
5. In addition to the distinctive sign, Parties to the conflict may agree upon the use of distinctive signals for civil defence identification purposes.
6. The application of the provisions of paragraphs 1 to 4 is governed by Chapter V of Annex I to this Protocol.
7. In time of peace, the sign described in paragraph 4 may, with the consent of the competent national authorities, be used for civil defence identification purposes.
8. The High Contracting Parties and the Parties to the conflict shall take the measures necessary to supervise the display of the international distinctive sign of civil defence and to prevent and repress any misuse thereof.
9. The identification of civil defence medical and religious personnel, medical units and medical transports is also governed by Article 18.

Art 67. Members of the armed forces and military units assigned to civil defence organizations

1. Members of the armed forces and military units assigned to civil defence organizations shall be respected and protected, provided that:
 - (a) such personnel and such units are permanently assigned and exclusively devoted to the performance of any of the tasks mentioned in Article 61;
 - (b) if so assigned, such personnel do not perform any other military duties during the conflict;
 - (c) such personnel are clearly distinguishable from the other members of the armed forces by prominently displaying the international distinctive sign of civil defence, which shall be as large as appropriate, and such personnel are provided with the identity card referred to in Chapter V of Annex I to this Protocol certifying their status;
 - (d) such personnel and such units are equipped only with light individual weapons for the purpose of maintaining order or for self-defence. The provisions of Article 65, paragraph 3 shall also apply in this case;
 - (e) such personnel do not participate directly in hostilities, and do not commit, or are not used to commit, outside their civil defence tasks, acts harmful to the adverse Party
 - (f) such personnel and such units perform their civil defence tasks only within the national territory of their Party.

The non-observance of the conditions stated in (e) above by any member of the armed forces who is bound by the conditions prescribed in (a) and (b) above is prohibited.

2. Military personnel serving within civil defence organizations shall, if they fall into the power of an adverse Party, be prisoners of war. In occupied territory they may, but only in the interest of the civilian population of that territory, be employed on civil defence tasks in so far as the need arises, provided however that, if such work is dangerous, they volunteer for such tasks.
3. The buildings and major items of equipment and transports of military units assigned to civil defence organizations shall be clearly marked with the international distinctive sign of civil defence. This distinctive sign shall be as large as appropriate.
4. The matériel and buildings of military units permanently assigned to civil defence organizations and exclusively devoted to the performance of civil defence tasks shall, if they fall into the hands of an adverse Party, remain subject to the laws of war. They may not be diverted from their civil defence purpose so long as

They are required for the performance of civil defence tasks, except in case of imperative military necessity, unless previous arrangements have been made for adequate provision for the needs of the civilian population.

Section II. Relief in Favour of the Civilian Population

Art 68. Field of application

The provisions of this Section apply to the civilian population as defined in this Protocol and are supplementary to Articles 23, 55, 59, 60, 61 and 62 and other relevant provisions of the Fourth Convention.

Art 69. Basic needs in occupied territories

In addition to the duties specified in Article 55 of the Fourth Convention concerning food and medical supplies, the Occupying Power shall, to the fullest extent of the means available to it and without any adverse distinction, also ensure the provision of clothing, bedding, means of shelter, other supplies essential to the survival of the civilian population of the occupied territory and objects necessary for religious worship.

Relief actions for the benefit of the civilian population of occupied territories are governed by Articles 59, 60, 61, 62, 108, 109, 110 and 111 of the Fourth Convention, and by Article 71 of this Protocol, and shall be implemented without delay.

Art 70. Relief actions

If the civilian population of any territory under the control of a Party to the conflict, other than occupied territory, is not adequately provided with the supplies mentioned in Article 69, relief actions which are humanitarian and impartial in character and conducted without any adverse distinction shall be undertaken, subject to the agreement of the Parties concerned in such relief actions. Offers of such relief shall not be regarded as interference in the armed conflict or as unfriendly acts. In the distribution of relief consignments, priority shall be given to those persons, such as children, expectant mothers, maternity cases and nursing mothers, who, under the Fourth Convention or under this Protocol, are to be accorded privileged treatment or special protection.

The Parties to the conflict and each High Contracting Party shall allow and facilitate rapid and unimpeded passage of all relief consignments, equipment and personnel provided in accordance with this Section, even if such assistance is destined for the civilian population of the adverse Party.

The Parties to the conflict and each High Contracting Party which allow the passage of relief consignments, equipment and personnel in accordance with paragraph 2:

- a) shall have the right to prescribe the technical arrangements, including search, under which such passage is permitted;
- b) may make such permission conditional on the distribution of this assistance being made under the local supervision of a Protecting Power;
- c) shall, in no way whatsoever, divert relief consignments from the purpose for which they are intended nor delay their forwarding, except in cases of urgent necessity in the interest of the civilian population concerned.

The Parties to the conflict shall protect relief consignments and facilitate their rapid distribution.

The Parties to the conflict and each High Contracting Party concerned shall encourage and facilitate effective international co-ordination of the relief actions referred to in paragraph 1.

Art 71. Personnel participating in relief actions

Where necessary, relief personnel may form part of the assistance provided in any relief action, in particular for the transportation and distribution of relief consignments; the participation of such personnel shall be subject to the approval of the Party in whose territory they will carry out their duties.

Such personnel shall be respected and protected.

Each Party in receipt of relief consignments shall, to the fullest extent practicable, assist the relief personnel referred to in paragraph 1 in carrying out their relief mission. Only in case of imperative military necessity may the activities of the relief personnel be limited or their movements temporarily restricted.

4. Under no circumstances may relief personnel exceed the terms of their mission under this Protocol. In particular they shall take account of the security requirements of the Party in whose territory they are carrying out their duties. The mission of any of the personnel who do not respect these conditions may be terminated.

Section III. Treatment of Persons in the Power of a Party to the Conflict

Chapter I. Field of application and protection of persons and objects

Art 72. Field of application

The provisions of this Section are additional to the rules concerning humanitarian protection of civilians and civilian objects in the power of a Party to the conflict contained in the Fourth Convention, particularly Parts I and III thereof, as well as to other applicable rules of international law relating to the protection of fundamental human rights during international armed conflict.

Art 73. Refugees and stateless persons

Persons who, before the beginning of hostilities, were considered as stateless persons or refugees under the relevant international instruments accepted by the Parties concerned or under the national legislation of the State of refuge or State of residence shall be protected persons within the meaning of Parts I and III of the Fourth Convention, in all circumstances and without any adverse distinction.

Art 74. Reunion of dispersed families

The High Contracting Parties and the Parties to the conflict shall facilitate in every possible way the reunion of families dispersed as a result of armed conflicts and shall encourage in particular the work of the humanitarian organizations engaged in this task in accordance with the provisions of the Conventions and of this Protocol and in conformity with their respective security regulations.

Art 75. Fundamental guarantees

1. In so far as they are affected by a situation referred to in Article 1 of this Protocol, persons who are in the power of a Party to the conflict and who do not benefit from more favourable treatment under the Conventions or under this Protocol shall be treated humanely in all circumstances and shall enjoy, as a minimum, the protection provided by this Article without any adverse distinction based upon race, colour, sex, language, religion or belief, political or other opinion, national or social origin, wealth, birth or other status, or on any other similar criteria. Each Party shall respect the person, honour, convictions and religious practices of all such persons.

2. The following acts are and shall remain prohibited at any time and in any place whatsoever, whether committed by civilian or by military agents:

(a) violence to the life, health, or physical or mental well-being of persons, in particular:

- (i) murder;
- (ii) torture of all kinds, whether physical or mental;
- (iii) corporal punishment; and
- (iv) mutilation;

(b) outrages upon personal dignity, in particular humiliating and degrading treatment, enforced prostitution and any form of indecent assault;

(c) the taking of hostages;

(d) collective punishments; and

(e) threats to commit any of the foregoing acts.

3. Any person arrested, detained or interned for actions related to the armed conflict shall be informed promptly, in a language he understands, of the reasons why these measures have been taken. Except in cases of arrest or detention for penal offences, such persons shall be released with the minimum delay possible and in any event as soon as the circumstances justifying the arrest, detention or internment have ceased to exist.

4. No sentence may be passed and no penalty may be executed on a person found guilty of a penal offence

related to the armed conflict except pursuant to a conviction pronounced by an impartial and regularly constituted court respecting the generally recognized principles of regular judicial procedure, which include the following:

- (a) the procedure shall provide for an accused to be informed without delay of the particulars of the offence alleged against him and shall afford the accused before and during his trial all necessary rights and means of defence;
- (b) no one shall be convicted of an offence except on the basis of individual penal responsibility;
- (c) no one shall be accused or convicted of a criminal offence on account or any act or omission which did not constitute a criminal offence under the national or international law to which he was subject at the time when it was committed; nor shall a heavier penalty be imposed than that which was applicable at the time when the criminal offence was committed; if, after the commission of the offence, provision is made by law for the imposition of a lighter penalty, the offender shall benefit thereby;
- (d) anyone charged with an offence is presumed innocent until proved guilty according to law;
- (e) anyone charged with an offence shall have the right to be tried in his presence;
- (f) no one shall be compelled to testify against himself or to confess guilt;
- (g) anyone charged with an offence shall have the right to examine, or have examined, the witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;
- (h) no one shall be prosecuted or punished by the same Party for an offence in respect of which a final judgement acquitting or convicting that person has been previously pronounced under the same law and judicial procedure;
- (i) anyone prosecuted for an offence shall have the right to have the judgement pronounced publicly; and
- (j) a convicted person shall be advised on conviction of his judicial and other remedies and of the time-limits within which they may be exercised.

5. Women whose liberty has been restricted for reasons related to the armed conflict shall be held in quarters separated from men's quarters. They shall be under the immediate supervision of women. Nevertheless, in cases where families are detained or interned, they shall, whenever possible, be held in the same place and accommodated as family units.

6. Persons who are arrested, detained or interned for reasons related to the armed conflict shall enjoy the protection provided by this Article until their final release, repatriation or re-establishment, even after the end of the armed conflict.

7. In order to avoid any doubt concerning the prosecution and trial of persons accused of war crimes or crimes against humanity, the following principles shall apply:

- (a) persons who are accused of such crimes should be submitted for the purpose of prosecution and trial in accordance with the applicable rules of international law; and
- (b) any such persons who do not benefit from more favourable treatment under the Conventions or this Protocol shall be accorded the treatment provided by this Article, whether or not the crimes of which they are accused constitute grave breaches of the Conventions or of this Protocol.

8. No provision of this Article may be construed as limiting or infringing any other more favourable provision granting greater protection, under any applicable rules of international law, to persons covered by paragraph 1

Chapter II. Measures in favour of women and children

Art 76. Protection of women

- 1. Women shall be the object of special respect and shall be protected in particular against rape, forced prostitution and any other form of indecent assault.
- 2. Pregnant women and mothers having dependent infants who are arrested, detained or interned for reasons related to the armed conflict, shall have their cases considered with the utmost priority.
- 3. To the maximum extent feasible, the Parties to the conflict shall endeavour to avoid the pronouncement of the death penalty on pregnant women or mothers having dependent infants, for an offence related to the armed conflict. The death penalty for such offences shall not be executed on such women.

Art 77. Protection of children

- 1. Children shall be the object of special respect and shall be protected against any form of indecent assault. The Parties to the conflict shall provide them with the care and aid they require, whether because of their age or for any other reason.

2. The Parties to the conflict shall take all feasible measures in order that children who have not attained the age of fifteen years do not take a direct part in hostilities and, in particular, they shall refrain from recruiting them into their armed forces. In recruiting among those persons who have attained the age of fifteen years but who have not attained the age of eighteen years the Parties to the conflict shall endeavour to give priority to those who are oldest.

3. If, in exceptional cases, despite the provisions of paragraph 2, children who have not attained the age of fifteen years take a direct part in hostilities and fall into the power of an adverse Party, they shall continue to benefit from the special protection accorded by this Article, whether or not they are prisoners of war.

4. If arrested, detained or interned for reasons related to the armed conflict, children shall be held in quarters separate from the quarters of adults, except where families are accommodated as family units as provided in Article 75, paragraph 5.

5. The death penalty for an offence related to the armed conflict shall not be executed on persons who had not attained the age of eighteen years at the time the offence was committed.

Art 78. Evacuation of children

1. No Party to the conflict shall arrange for the evacuation of children, other than its own nationals, to a foreign country except for a temporary evacuation where compelling reasons of the health or medical treatment of the children or, except in occupied territory, their safety, so require. Where the parents or legal guardians can be found, their written consent to such evacuation is required. If these persons cannot be found, the written consent to such evacuation of the persons who by law or custom are primarily responsible for the care of the children is required. Any such evacuation shall be supervised by the Protecting Power in agreement with the Parties concerned, namely, the Party arranging for the evacuation, the Party receiving the children and any Parties whose nationals are being evacuated. In each case, all Parties to the conflict shall take all feasible precautions to avoid endangering the evacuation.

2. Whenever an evacuation occurs pursuant to paragraph 1, each child's education, including his religious and moral education as his parents desire, shall be provided while he is away with the greatest possible continuity.

3. With a view to facilitating the return to their families and country of children evacuated pursuant to this Article, the authorities of the Party arranging for the evacuation and, as appropriate, the authorities of the receiving country shall establish for each child a card with photographs, which they shall send to the Central Tracing Agency of the International Committee of the Red Cross. Each card shall bear, whenever possible, and whenever it involves no risk of harm to the child, the following information:

- (a) surname(s) of the child;
- (b) the child's first name(s);
- (c) the child's sex;
- (d) the place and date of birth (or, if that date is not known, the approximate age);
- (e) the father's full name;
- (f) the mother's full name and her maiden name;
- (g) the child's next-of-kin;
- (h) the child's nationality;
- (i) the child's native language, and any other languages he speaks;
- (j) the address of the child's family;
- (k) any identification number for the child;
- (l) the child's state of health;
- (m) the child's blood group;
- (n) any distinguishing features;
- (o) the date on which and the place where the child was found;
- (p) the date on which and the place from which the child left the country;
- (q) the child's religion, if any;
- (r) the child's present address in the receiving country;
- (s) should the child die before his return, the date, place and circumstances of death and place of interment.

Chapter III. Journalists

Art 79. Measures of protection for journalists

1. Journalists engaged in dangerous professional missions in areas of armed conflict shall be considered as civilians within the meaning of Article 50, paragraph 1.

2. They shall be protected as such under the Conventions and this Protocol, provided that they take no action adversely affecting their status as civilians, and without prejudice to the right of war correspondents accredited to the armed forces to the status provided for in Article 4 (A) (4) of the Third Convention.

3. They may obtain an identity card similar to the model in Annex II of this Protocol. This card, which shall be issued by the government of the State of which the Journalist is a national or in whose territory he resides or in which the news medium employing him is located, shall attest to his status as a journalist.

Part V. Execution of the Conventions and of its Protocols

Section I. General Provisions

Art 80. Measures for execution

1. The High Contracting Parties and the Parties to the conflict shall without delay take all necessary measures for the execution of their obligations under the Conventions and this Protocol.

2. The High Contracting Parties and the Parties to the conflict shall give orders and instructions to ensure observance of the Conventions and this Protocol, and shall supervise their execution.

Art 81. Activities of the Red Cross and other humanitarian organizations

1. The Parties to the conflict shall grant to the International Committee of the Red Cross all facilities, within their power so as to enable it to carry out the humanitarian functions assigned to it by the Conventions and this Protocol in order to ensure protection and assistance to the victims of conflicts; the International Committee of the Red Cross may also carry out any other humanitarian activities in favour of these victims, subject to the consent of the Parties to the conflict concerned.

2. The Parties to the conflict shall grant to their respective Red Cross (Red Crescent, Red Lion and Sun) organizations the facilities necessary for carrying out their humanitarian activities in favour of the victims of the conflict, in accordance with the provisions of the Conventions and this Protocol and the fundamental principles of the Red Cross as formulated by the International Conferences of the Red Cross.

3. The High Contracting Parties and the Parties to the conflict shall facilitate in every possible way the assistance which Red Cross (Red Crescent, Red Lion and Sun) organizations and the League of Red Cross Societies extend to the victims of conflicts in accordance with the provisions of the Conventions and this Protocol and with the fundamental principles of the red Cross as formulated by the International Conferences of the Red Cross.

4. The High Contracting Parties and the Parties to the conflict shall, as far as possible, make facilities similar to those mentioned in paragraphs 2 and 3 available to the other humanitarian organizations referred to in the Conventions and this Protocol which are duly authorized by the respective Parties to the conflict and which perform their humanitarian activities in accordance with the provisions of the Conventions and this Protocol.

Art 82. Legal advisers in armed forces

The High Contracting Parties at all times, and the Parties to the conflict in time of armed conflict, shall ensure that legal advisers are available, when necessary, to advise military commanders at the appropriate level on the application of the Conventions and this Protocol and on the appropriate instruction to be given to the armed forces on this subject.

Art 83. Dissemination

1. The High Contracting Parties undertake, in time of peace as in time of armed conflict, to disseminate the Conventions and this Protocol as widely as possible in their respective countries and, in particular, to include the study thereof in their programmes of military instruction and to encourage the study thereof by the civilian population, so that those instruments may become known to the armed forces and to the civilian population.

2. Any military or civilian authorities who, in time of armed conflict, assume responsibilities in respect of the application of the Conventions and this Protocol shall be fully acquainted with the text thereof.

Art 84. Rules of application

The High Contracting Parties shall communicate to one another, as soon as possible, through the depositary and, as appropriate, through the Protecting Powers, their official translations of this Protocol, as well as the laws and regulations which they may adopt to ensure its application.

Section II. Repression of Breaches of the Conventions and of this Protocol

Article 85 - Repression of breaches of this Protocol

1. The provisions of the Conventions relating to the repression of breaches and grave breaches, supplemented by this Section, shall apply to the repression of breaches and grave breaches of this Protocol.

2. Acts described as grave breaches in the Conventions are grave breaches of this Protocol if committed against persons in the power of an adverse Party protected by Articles 44, 45 and 73 of this Protocol, or against the wounded, sick and shipwrecked of the adverse Party who are protected by this Protocol, or against those medical or religious personnel, medical units or medical transports which are under the control of the adverse Party and are protected by this Protocol.

3. In addition to the grave breaches defined in Article 11, the following acts shall be regarded as grave breaches of this Protocol, when committed wilfully, in violation of the relevant provisions of this Protocol, and causing death or serious injury to body or health:

- (a) making the civilian population or individual civilians the object of attack;
- (b) launching an indiscriminate attack affecting the civilian population or civilian objects in the knowledge that such attack will cause excessive loss of life, injury to civilians or damage to civilian objects, as defined in Article 57, paragraph 2 (a)(iii);
- (c) launching an attack against works or installations containing dangerous forces in the knowledge that such attack will cause excessive loss of life, injury to civilians or damage to civilian objects, as defined in Article 57, paragraph 2 (a)(iii);
- (d) making non-defended localities and demilitarized zones the object of attack;
- (e) making a person the object of attack in the knowledge that he is hors de combat;
- (f) the perfidious use, in violation of Article 37, of the distinctive emblem of the red cross, red crescent or red lion and sun or of other protective signs recognized by the Conventions or this Protocol.

4. In addition to the grave breaches defined in the preceding paragraphs and in the Conventions, the following shall be regarded as grave breaches of this Protocol, when committed wilfully and in violation of the Conventions or the Protocol:

- (a) the transfer by the occupying Power of parts of its own civilian population into the territory it occupies, or the deportation or transfer of all or parts of the population of the occupied territory within or outside this territory, in violation of Article 49 of the Fourth Convention;
- (b) unjustifiable delay in the repatriation of prisoners of war or civilians;
- (c) practices of apartheid and other inhuman and degrading practices involving outrages upon personal dignity, based on racial discrimination;
- (d) making the clearly-recognized historic monuments, works of art or places of worship which constitute the cultural or spiritual heritage of peoples and to which special protection has been given by special arrangement, for example, within the framework of a competent international organization, the object of attack, causing as a result extensive destruction thereof, where there is no evidence of the violation by the adverse Party of Article 53, subparagraph (b), and when such historic monuments, works of art and places of worship are not located in the immediate proximity of military objectives;
- (e) depriving a person protected by the Conventions or referred to in paragraph 2 of this Article of the rights of fair and regular trial.

5. Without prejudice to the application of the Conventions and of this Protocol, grave breaches of these instruments shall be regarded as war crimes.

Art 86. Failure to act

1. The High Contracting Parties and the Parties to the conflict shall repress grave breaches, and take measures necessary to suppress all other breaches, of the Conventions or of this Protocol which result from a failure to act when under a duty to do so.

2. The fact that a breach of the Conventions or of this Protocol was committed by a subordinate does not absolve his superiors from penal or disciplinary responsibility, as the case may be, if they knew, or had information which should have enabled them to conclude in the circumstances at the time, that he was committing or was going to commit such a breach and if they did not take all feasible measures within their

power to prevent or repress the breach.

Art 87. Duty of commanders

1. The High Contracting Parties and the Parties to the conflict shall require military commanders, with respect to members of the armed forces under their command and other persons under their control, to prevent and, where necessary, to suppress and to report to competent authorities breaches of the Conventions and of this Protocol.

2. In order to prevent and suppress breaches, High Contracting Parties and Parties to the conflict shall require that, commensurate with their level of responsibility, commanders ensure that members of the armed forces under their command are aware of their obligations under the Conventions and this Protocol.

3. The High Contracting Parties and Parties to the conflict shall require any commander who is aware that subordinates or other persons under his control are going to commit or have committed a breach of the Conventions or of this Protocol, to initiate such steps as are necessary to prevent such violations of the Conventions or this Protocol, and, where appropriate, to initiate disciplinary or penal action against violators thereof.

Art 88. Mutual assistance in criminal matters

1. The High Contracting Parties shall afford one another the greatest measure of assistance in connexion with criminal proceedings brought in respect of grave breaches of the Conventions or of this Protocol.

2. Subject to the rights and obligations established in the Conventions and in Article 85, paragraph 1 of this Protocol, and when circumstances permit, the High Contracting Parties shall co-operate in the matter of extradition. They shall give due consideration to the request of the State in whose territory the alleged offence has occurred.

3. The law of the High Contracting Party requested shall apply in all cases. The provisions of the preceding paragraphs shall not, however, affect the obligations arising from the provisions of any other treaty of a bilateral or multilateral nature which governs or will govern the whole or part of the subject of mutual assistance in criminal matters.

Art 89. Co-operation

In situations of serious violations of the Conventions or of this Protocol, the High Contracting Parties undertake to act jointly or individually, in co-operation with the United Nations and in conformity with the United Nations Charter.

Art 90. International Fact-Finding Commission

1. (a) An International Fact-Finding Commission (hereinafter referred to as "the Commission") consisting of 15 members of high moral standing and acknowledged impartiality shall be established;

(b) When not less than 20 High Contracting Parties have agreed to accept the competence of the Commission pursuant to paragraph 2, the depositary shall then, and at intervals of five years thereafter, convene a meeting of representatives of those High Contracting Parties for the purpose of electing the members of the Commission. At the meeting, the representatives shall elect the members of the Commission by secret ballot from a list of persons to which each of those High Contracting Parties may nominate one person;

(c) The members of the Commission shall serve in their personal capacity and shall hold office until the election of new members at the ensuing meeting;

(d) At the election, the High Contracting Parties shall ensure that the persons to be elected to the Commission individually possess the qualifications required and that, in the Commission as a whole, equitable geographical representation is assured;

(e) In the case of a casual vacancy, the Commission itself shall fill the vacancy, having due regard to the provisions of the preceding subparagraphs;

(f) The depositary shall make available to the Commission the necessary administrative facilities for the performance of its functions.

2. (a) The High Contracting Parties may at the time of signing, ratifying or acceding to the Protocol, or at any other subsequent time, declare that they recognize ipso facto and without special agreement, in relation to

any other High Contracting Party accepting the same obligation, the competence of the Commission to inquire into allegations by such other Party, as authorized by this Article;

(b) The declarations referred to above shall be deposited with the depositary, which shall transmit copies thereof to the High Contracting Parties;

(c) The Commission shall be competent to:

(i) inquire into any facts alleged to be a grave breach as defined in the Conventions and this Protocol or other serious violation of the Conventions or of this Protocol;

(ii) facilitate, through its good offices, the restoration of an attitude of respect for the Conventions and this Protocol;

(d) In other situations, the Commission shall institute an inquiry at the request of a Party to the conflict only with the consent of the other Party or Parties concerned;

(e) Subject to the foregoing provisions of this paragraph, the provisions of Article 52 of the First Convention, Article 53 of the Second Convention, Article 132 of the Third Convention and Article 149 of the Fourth Convention shall continue to apply to any alleged violation of the Conventions and shall extend to any alleged violation of this Protocol.

3. (a) Unless otherwise agreed by the Parties concerned, all inquiries shall be undertaken by a Chamber consisting of seven members appointed as follows:

(i) five members of the Commission, not nationals of any Party to the conflict, appointed by the President of the Commission on the basis of equitable representation of the geographical areas, after consultation with the Parties to the conflict;

(ii) two ad hoc members, not nationals of any Party to the conflict, one to be appointed by each side;

(b) Upon receipt of the request for an inquiry, the President of the Commission shall specify an appropriate time-limit for setting up a Chamber. If any ad hoc member has not been appointed within the time-limit, the President shall immediately appoint such additional member or members of the Commission as may be necessary to complete the membership of the Chamber.

4. (a) The Chamber set up under paragraph 3 to undertake an inquiry shall invite the Parties to the conflict to assist it and to present evidence. The Chamber may also seek such other evidence as it deems appropriate and may carry out an investigation of the situation in loco;

(b) All evidence shall be fully disclosed to the Parties, which shall have the right to comment on it to the Commission;

(c) Each Party shall have the right to challenge such evidence.

5. (a) The Commission shall submit to the Parties a report on the findings of fact of the Chamber, with such recommendations as it may deem appropriate;

(b) If the Chamber is unable to secure sufficient evidence for factual and impartial findings, the Commission shall state the reasons for that inability;

(c) The Commission shall not report its findings publicly, unless all the Parties to the conflict have requested the Commission to do so.

6. The Commission shall establish its own rules, including rules for the presidency or the Commission and the presidency of the Chamber. Those rules shall ensure that the functions of the President of the Commission are exercised at all times and that, in the case of an inquiry, they are exercised by a person who is not a national of a Party to the conflict.

7. The administrative expenses of the Commission shall be met by contributions from the High Contracting Parties which made declarations under paragraph 2, and by voluntary contributions. The Party or Parties to the conflict requesting an inquiry shall advance the necessary funds for expenses incurred by a Chamber and shall be reimbursed by the Party or Parties against which the allegations are made to the extent of 50 per cent of the costs of the Chamber. Where there are counter-allegations before the Chamber each side shall advance 50 per cent of the necessary funds.

Art 91. Responsibility

A Party to the conflict which violates the provisions of the Conventions or of this Protocol shall, if the case demands, be liable to pay compensation. It shall be responsible for all acts committed by persons forming part of its armed forces.

Part IV. Final Resolutions

Art 92. Signature

This Protocol shall be open for signature by the Parties to the Conventions six months after the signing of the Final Act and will remain open for a period of twelve months.

Art 93. Ratification

This Protocol shall be ratified as soon as possible. The instruments of ratification shall be deposited with the Swiss Federal Council, depositary of the Conventions.

Art 94. Accession

This Protocol shall be open for accession by any Party to the Conventions which has not signed it. The instruments of accession shall be deposited with the depositary.

Art 95.- Entry into force

1. This Protocol shall enter into force six months after two instruments of ratification or accession have been deposited.
2. For each Party to the Conventions thereafter ratifying or acceding to this Protocol, it shall enter into force six months after the deposit by such Party of its instrument of ratification or accession.

Art 96. Treaty relations upon entry into force of this Protocol

1. When the Parties to the Conventions are also Parties to this Protocol, the Conventions shall apply as supplemented by this Protocol.
2. When one of the Parties to the conflict is not bound by this Protocol, the Parties to the Protocol shall remain bound by it in their mutual relations. They shall furthermore be bound by this Protocol in relation to each of the Parties which are not bound by it, if the latter accepts and applies the provisions thereof.
3. The authority representing a people engaged against a High Contracting Party in an armed conflict of the type referred to in Article 1, paragraph 4, may undertake to apply the Conventions and this Protocol in relation to that conflict by means of a unilateral declaration addressed to the depositary. Such declaration shall, upon its receipt by the depositary, have in relation to that conflict the following effects:
 - (a) the Conventions and this Protocol are brought into force for the said authority as a Party to the conflict with immediate effect;
 - (b) the said authority assumes the same rights and obligations as those which have been assumed by a High Contracting Party to the Conventions and this Protocol; and
 - (c) the Conventions and this Protocol are equally binding upon all Parties to the conflict.

Art 97. Amendment

1. Any High Contracting Party may propose amendments to this Protocol. The text of any proposed amendment shall be communicated to the depositary, which shall decide, after consultation with all the High Contracting Parties and the International Committee of the Red Cross, whether a conference should be convened to consider the proposed amendment.
2. The depositary shall invite to that conference all the High Contracting Parties as well as the Parties to the Conventions, whether or not they are signatories of this Protocol.

Art 98. Revision of Annex I

1. Not later than four years after the entry into force of this Protocol and thereafter at intervals of not less than four years, the International Committee of the Red Cross shall consult the High Contracting Parties concerning Annex I to this Protocol and, if it considers it necessary, may propose a meeting of technical experts to review Annex I and to propose such amendments to it as may appear to be desirable. Unless, within six months of the communication of a proposal for such a meeting to the High Contracting Parties, one third of them object, the International Committee of the Red Cross shall convene the meeting, inviting also observers of appropriate international organizations. Such a meeting shall also be convened by the International Committee of the Red Cross at any time at the request of one third of the High Contracting Parties.

2. The depositary shall convene a conference of the High Contracting Parties and the Parties to the Conventions to consider amendments proposed by the meeting of technical experts if, after that meeting, the International Committee of the Red Cross or one third of the High Contracting Parties so request.
3. Amendments to Annex I may be adopted at such a conference by a two-thirds majority of the High Contracting Parties present and voting.
4. The depositary shall communicate any amendment so adopted to the High Contracting Parties and to the Parties to the Conventions. The amendment shall be considered to have been accepted at the end of a period of one year after it has been so communicated, unless within that period a declaration of non-acceptance of the amendment has been communicated to the depositary by not less than one third of the High Contracting Parties.
5. An amendment considered to have been accepted in accordance with paragraph 4 shall enter into force three months after its acceptance for all High Contracting Parties other than those which have made a declaration of non-acceptance in accordance with that paragraph. Any Party making such a declaration may at any time withdraw it and the amendment shall then enter into force for that Party three months thereafter.
6. The depositary shall notify the High Contracting Parties and the Parties to the Conventions of the entry into force of any amendment, of the Parties bound thereby, of the date of its entry into force in relation to each Party, of declarations of non-acceptance made in accordance with paragraph 4, and of withdrawals of such declarations.

Article 99 - Denunciation

1. In case a High Contracting Party should denounce this Protocol, the denunciation shall only take effect one year after receipt of the instrument of denunciation. If, however, on the expiry of that year the denouncing Party is engaged in one of the situations referred to in Article I, the denunciation shall not take effect before the end of the armed conflict or occupation and not, in any case, before operations connected with the final release, repatriation or re-establishment of the persons protected by the Convention or this Protocol have been terminated.
2. The denunciation shall be notified in writing to the depositary, which shall transmit it to all the High Contracting Parties.
3. The denunciation shall have effect only in respect of the denouncing Party.
4. Any denunciation under paragraph 1 shall not affect the obligations already incurred, by reason of the armed conflict, under this Protocol by such denouncing Party in respect of any act committed before this denunciation becomes effective.

Article 100 - Notifications

The depositary shall inform the High Contracting Parties as well as the Parties to the Conventions, whether or not they are signatories of this Protocol, of:


- (a) signatures affixed to this Protocol and the deposit of instruments of ratification and accession under Articles 93 and 94;
- (b) the date of entry into force of this Protocol under Article 95;
- (c) communications and declarations received under Articles 84, 90 and 97;
- (d) declarations received under Article 96, paragraph 3, which shall be communicated by the quickest methods; and
- (e) denunciations under Article 99.

Art 101. Registration


1. After its entry into force, this Protocol shall be transmitted by the depositary to the Secretariat of the United Nations for registration and publication, in accordance with Article 102 of the Charter of the United Nations.
2. The depositary shall also inform the Secretariat of the United Nations of all ratifications, accessions and denunciations received by it with respect to this Protocol.

Art 102. Authentic texts

The original of this Protocol, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the depositary, which shall transmit certified true copies thereof to all the Parties to the Conventions.

ANNEX I AS AMENDED ON 30 NOVEMBER 1993: REGULATIONS CONCERNING IDENTIFICATION 
(This Annex replaces the former Annex I)

[Former] Annex I. Regulations Concerning Identification  (for explanations, see the introduction: )

Annex II. Identity Card for Journalists on Dangerous Professional Missions 

I N T E R N A T I O N A L H U M A N I T A R I A N L A W

International Committee of the Red Cross


APPENDICE

VIII

Annex I (to the Protocol I) : Regulations concerning identification as of 6 June 1977)

Introduction

General title	Diplomatic Conference of Geneva of 1974-1977.
Forum of adoption	Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law applicable in Armed Conflicts
In force	yes
Entry into force	07.12.1978

For an introduction, see introduction to Protocol I .

This annex is in force yet for Jordan and Sweden which deposit reservations to the amended Annex I.

Meetings of forum	1st session:20.02.1974 - 29.03.1974, Geneva #2nd session:03.02.1975 - 18.04.1975, Geneva #3rd session:21.04.1976 - 11.06.1976, Geneva #4th session:17.03.1977 - 10.06.1977, Geneva
Date of adoption	08.06.1977
Depositary	Switzerland
Number of articles	16
Authentic text	English; Arabic; Chinese; Spanish; French; Russian

INTERNATIONAL HUMANITARIAN LAW

International Committee of the Red Cross

Annex I (to the Protocol I) : Regulations concerning identification as of 6 June 1977)

Full text

Annex I. Regulations Concerning Identification

CHAPTER I. IDENTITY CARDS

Article 1 Identity card for permanent civilian medical and religious personnel

1. The identity card for permanent civilian medical and religious personnel referred to in Article 18, paragraph 3, of the Protocol should:

- a) bear the distinctive emblem and be of such size that it can be carried in the pocket;
- b) be as durable as practicable;
- c) be worded in the national or official language (and may in addition be worded in other languages);
- d) mention the name, the date of birth (or, if that date is not available, the age at the time of issue) and the identity number, if any, of the holder;
- e) state in what capacity the holder is entitled to the protection of the Conventions and of the Protocol;
- f) bear the photograph of the holder as well as his signature or his thumb-print, or both;
- g) bear the stamp and signature of the competent authority;
- h) state the date of issue and date of expiry of the card.

2. The identity card shall be uniform throughout the territory of each High Contracting Party and, as far as possible, of the same type for all Parties to the conflict. The Parties to the conflict may be guided by the single-language model shown in Figure 1. At the outbreak of hostilities, they shall transmit to each other a specimen of the model they are using, if such model differs from that shown in Figure 1. The identity card shall be made out, if possible, in duplicate, one copy being kept by the issuing authority, which should maintain control of the cards which it has issued.

3. In no circumstances may permanent civilian medical and religious personnel be deprived of their identity cards. In the event of the loss of a card, they shall be entitled to obtain a duplicate copy.

Article 2 - Identity card for temporary civilian medical and religious personnel

1. The identity card for temporary civilian medical and religious personnel should, whenever possible, be similar to that provided for in Article 1 of these Regulations. The Parties to the conflict may be guided by the model shown in Figure 1.

2. When circumstances preclude the provision to temporary civilian medical and religious personnel of identity cards similar to those described in Article 1 of these Regulations, the said personnel may be provided with a certificate signed by the competent authority certifying that the person to whom it is issued is assigned to duty as temporary personnel and stating, if possible, the duration of such assignment and his right to wear the distinctive emblem. The certificate should mention the holder's name and date of birth (or if that date is not available, his age at the time when the certificate was issued), his function and identity number, if any. It shall bear his signature or his thumb-print, or both.

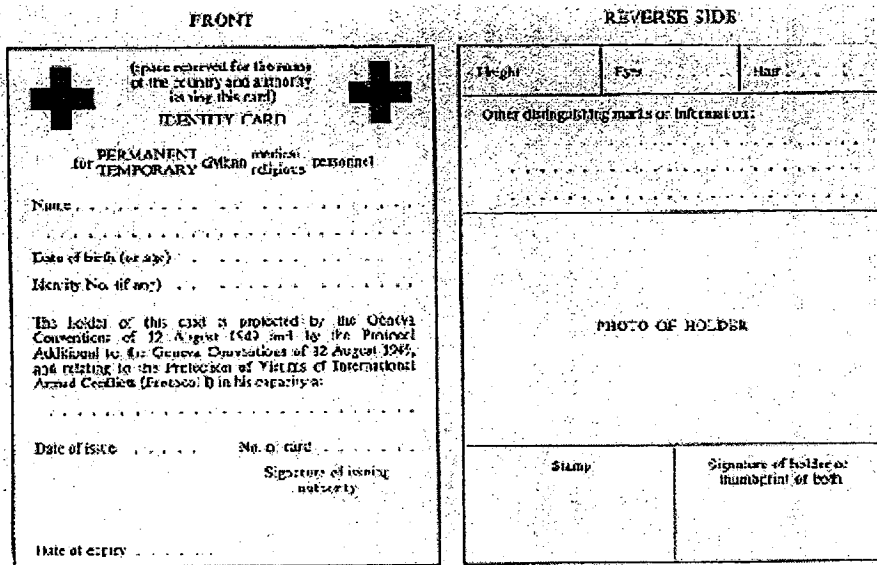


Fig 1. Model of Identity card (74mm x 105mm)

CHAPTER II. THE DISTINCTIVE EMBLEM

Article 3 - Shape and nature

1. The distinctive emblem (red on a white ground) shall be as large as appropriate under the circumstances. For the shapes of the cross, the crescent or the lion and sun, the High Contracting Parties may be guided by the models shown in Figure 2.
2. At night or when visibility is reduced, the distinctive emblem may be lighted or illuminated; it may also be made of materials rendering it recognizable by technical means of detection.



Fig. 2: Distinctive emblems in red on a white ground

Article 4 Use

1. The distinctive emblem shall, whenever possible, be displayed on a flat surface or on flags visible from as many directions and from as far away as possible.
2. Subject to the instructions of the competent authority, medical and religious personnel carrying out their duties in the battle area shall, as far as possible, wear headgear and clothing bearing the distinctive emblem.

CHAPTER III. DISTINCTIVE SIGNALS

Article 5 - Optional Use

1. Subject to the provisions of Article 6 of these Regulations, the signals specified in this Chapter for exclusive use by medical units and transports shall not be used for any other purpose. The use of all signals referred to in this Chapter is optional.
2. Temporary medical aircraft which cannot, either for lack of time or because of their characteristics, be marked with the distinctive emblem, may use the distinctive signals authorized in this Chapter. The best method of effective identification and recognition of medical aircraft is, however, the use of a visual signal, either the distinctive emblem or the light signal specified in Article 6, or both, supplemented by the other signals referred to in Articles 7 and 8 of these Regulations.

Article 6 - Light signal

1. The light signal, consisting of a flashing blue light, is established for the use of medical aircraft to

signal their identity. No other aircraft shall use this signal. The recommended blue colour is obtained by using, as trichromatic co-ordinates:

green boundary $y = 0.065 + 0.805x$
white boundary $y = 0.400 - x$
purple boundary $x = 0.133 + 0.600y$

The recommended flashing rate of the blue light is between sixty and one hundred flashes per minute. 2. Medical aircraft should be equipped with such lights as may be necessary to make the light signal visible in as many directions as possible. 3. In the absence of a special agreement between the Parties to the conflict reserving the use of flashing blue lights for the identification of medical vehicles and ships and craft, the use of such signals for other vehicles or ships is not prohibited.

Article 7 - Radio signal

1. The radio signal shall consist of a radiotelephonic or radiotelegraphic message preceded by a distinctive priority signal to be designated and approved by a World Administrative Radio Conference of the International Telecommunication Union. It shall be transmitted three times before the call sign of the medical transport involved. This message shall be transmitted in English at appropriate intervals on a frequency or frequencies specified pursuant to paragraph j. The use of the priority signal shall be restricted exclusively to medical units and transports.

2. The radio message preceded by the distinctive priority signal mentioned in paragraph 1 shall convey the following data:

- a) call sign of the medical transport;
- b) position of the medical transport;
- c) number and type of medical transports;
- d) intended route;
- e) estimated time en route and of departure and arrival, as appropriate; any other information such as flight altitude, radio frequencies guarded, languages and secondary surveillance radar modes and codes.

3. In order to facilitate the communications referred to in paragraphs 1 and 2, as well as the communications referred to in Articles 22, 23, 25, 26, 27, 28, 29, 30 and 31 of the Protocol, the High Contracting Parties, the Parties to a conflict, or one of the Parties to a conflict, acting in agreement or alone, may designate, in accordance with the Table of Frequency Allocations in the Radio Regulations annexed to the International Telecommunication Convention, and publish selected national frequencies to be used by them for such communications. These frequency shall be notified to the International Telecommunication Union in accordance with procedures to be approved by a World Administrative Radio Conference.

Article 8 - Electronic identification

1. The Secondary Surveillance Radar (SSR) system, as specified in Annex 10 to the Chicago Convention on International Civil Aviation of 7 December 1944, as amended from time to time, may be used to identify and to follow the course of medical aircraft. The SSR mode and code to be reserved for the exclusive use of medical aircraft shall be established by the High Contracting Parties, the Parties to a conflict, or one of the Parties to a conflict, acting in agreement or alone, in accordance with procedures to be recommended by the International Civil Aviation Organization.

2. Parties to a conflict may, by special agreement between them, establish for their use a similar electronic system for the identification of medical vehicles, and medical ships and craft.

CHAPTER IV. COMMUNICATIONS

Article 9 - Radiocommunications

The priority signal provided for in Article 7 of these Regulations may precede appropriate radiocommunications by medical units and transports in the application of the procedures carried out under Articles 22, 23, 25, 26, 27, 28, 29, 30 and 31 of the Protocol.

Article 10 Use of international codes

Medical units and transports may also use the codes and signals laid down by the International Telecommunication Union, the International Civil Aviation Organization and the Inter-Governmental Maritime Consultative Organization. These codes and signals shall be used in accordance with the standards, practices and procedures established by these Organizations.

Article 11 Other means of communication

When two-way radiocommunication is not possible, the signals provided for in the International Code of Signals adopted by the Inter-Governmental Maritime Consultative Organization or in the appropriate Annex to the Chicago Convention on International Civil Aviation of 7 December 1944, as amended from time to time, may be used.

Article 12 - Flight plans

The agreements and notifications relating to flight plans provided for in Article 29 of the Protocol shall as far as possible be formulated in accordance with procedures laid down by the International Civil Aviation Organization.

Article 13 - Signals and procedures for the interception of medical aircraft

If an intercepting aircraft is used to verify the identity of a medical aircraft in flight or to require it to land in accordance with Articles 30 and 31 of the Protocol, the standard visual and radio interception procedures prescribed by Annex 2 to the Chicago Convention on International Civil Aviation of 7 December 1944, as amended from time to time, should be used by the intercepting and the medical aircraft.



FRONT	REVERSE SIDE															
<div style="display: flex; justify-content: space-between; align-items: center;"> <div style="width: 15%; text-align: center;">  </div> <div style="width: 60%; text-align: center;"> <p>(space reserved for the name of the country and authority issuing this card)</p> <p>IDENTITY CARD for civil defence personnel</p> </div> <div style="width: 15%; text-align: center;">  </div> </div> <p>Name</p> <p>Date of birth (or age)</p> <p>Identity No. (if any)</p> <p>The holder of this card is protected by the Geneva Conventions of 12 August 1949 and by the Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I) in his capacity as</p> <p>Date of issue No. of card</p> <p style="text-align: center;">Signature of issuing authority</p> <p>Date of expiry</p>	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 33%;">Height</td> <td style="width: 33%;">Eyes</td> <td style="width: 33%;">Hair</td> </tr> <tr> <td colspan="3">Other distinguishing marks or information:</td> </tr> <tr> <td colspan="3">Weapons</td> </tr> <tr> <td colspan="3" style="text-align: center; height: 100px;">PHOTO OF HOLDER</td> </tr> <tr> <td style="width: 50%;">Stamp</td> <td colspan="2">Signature of holder or thumbprint or both</td> </tr> </table>	Height	Eyes	Hair	Other distinguishing marks or information:			Weapons			PHOTO OF HOLDER			Stamp	Signature of holder or thumbprint or both	
Height	Eyes	Hair														
Other distinguishing marks or information:																
Weapons																
PHOTO OF HOLDER																
Stamp	Signature of holder or thumbprint or both															

Fig 3. Model identity card for civil defence personnel (format: 74mm x 105mm)

CHAPTER V. CIVIL DEFENCE

Article 14 Identity card

1. The identity card of the civil defence personnel provided for in Article 66, paragraph 3, of the Protocol is governed by the relevant provisions of Article 1 of these Regulations.
2. The identity card for civil defence personnel may follow the model shown in Figure 3.
3. If civil defence personnel are permitted to carry light individual weapons,

Article 15 International distinctive sign

1. The international distinctive sign of civil defence provided for in Article 66, paragraph 4, of the Protocol is an equilateral blue triangle on an orange ground. A model is shown in Figure 4:
2. It is recommended that:
 - a) if the blue triangle is on a flag or armlet or tabard, the ground to the triangle be the orange flag, armlet or tabard;
 - b) one of the angles of the triangle be pointed vertically upwards;
 - c) no angle of the triangle touch the edge of the orange ground.

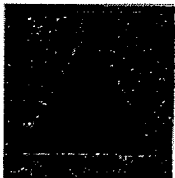


Fig 4: Blue triangle on an orange background

3. The international distinctive sign shall be as large as appropriate under the circumstances. The distinctive sign shall, whenever possible, be displayed on flat surfaces or on flags visible from as many directions and from as far away as possible. Subject to the instructions of the competent authority, civil defence personnel shall, as far as possible, wear headgear and clothing bearing the international distinctive sign. At night or when visibility is reduced, the sign may be lighted or illuminated; it may also be made of materials rendering it recognizable by technical means of detection.

CHAPTER VI. WORKS AND INSTALLATIONS CONTAINING DANGEROUS FORCES

Article 16 International special sign

1. The international special sign for works and installations containing dangerous forces, as provided for in Article 56, paragraph 7, of the Protocol, shall be a group of three bright orange circles of equal size, placed on the same axis, the distance between each circle being one radius, in accordance with Figure 5 illustrated below,
2. The sign shall be as large as appropriate under the circumstances. When displayed over an extended surface it may be repeated as often as appropriate under the circumstances. It shall, whenever possible, be displayed on flat surfaces or on flags so as to be visible from as many directions and from as far away as possible.
3. On a flag, the distance between the outer limits of the sign and the adjacent sides of the flag shall be one radius of a circle. The flag shall be rectangular and shall have a white ground.
4. At night or when visibility is reduced, the sign may be lighted or illuminated. It may also be made of materials rendering it recognizable by technical means of detection.



Fig. 5: International special sign for works and installations containing dangerous forces

I N T E R N A T I O N A L H U M A N I T A R I A N L A W

International Committee of the Red Cross

APPENDICE

IX

Document printed from the ICRC web site on the 08.01.2008

Annex II (to the Protocol I)

Introduction

General title	Diplomatic Conference of Geneva of 1974-1977.
Forum of adoption	Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law applicable in Armed Conflicts
In force	yes
Entry into force	07.12.1978

For an introduction, see introduction to Protocol I [Q](#).

Meetings of forum	1st session:20.02.1974 - 29.03.1974, Geneva #2nd session:03.02.1975 - 18.04.1975, Geneva #3rd session:21.04.1976 - 11.06.1976, Geneva #4th session:17.03.1977 - 10.06.1977, Geneva
Date of adoption	08.06.1977
Depositary	Switzerland
Number of articles	1
Authentic text	English; Arabic; Chinese; Spanish; French; Russian

INTERNATIONAL HUMANITARIAN LAW

International Committee of the Red Cross

Annex II (to the Protocol I)

Full text

Annex II. Identity Card for Journalists on Dangerous Professional Missions

<p>NOTICE</p> <p>The details and mission parameters on dangerous professional missions to areas of armed conflict are regulated in Article 13 of the 1977 Additional Protocol I to the Geneva Conventions of 12 August 1949 and their Additional Protocol II. The rules apply to persons in all circumstances of armed conflict, including those of the Occupied Territories, and to persons in the Occupied Territories.</p>	<p>(Name of country issuing this card) واسم البلد الذي أصدر هذه البطاقة (Nombre del país que expide esta tarjeta) (Nom du pays qui a délivré cette carte) (Название страны, выдающей удостоверение журналиста)</p>
<p>ملاحظة</p> <p>تحدد التفاصيل والمهام المتعلقة بالمهام المهنية الخطيرة في مناطق النزاع المسلحة في المادة 13 من البروتوكول الإضافي الأول لعام 1977 إلى اتفاقيات جنيف لعام 1949، وبروتوكولها الإضافي الثاني. تنطبق القواعد على الأشخاص في جميع حالات النزاع المسلح، بما في ذلك المناطق المحتلة، والأشخاص في المناطق المحتلة.</p>	<p>IDENTITY CARD FOR JOURNALISTS ON DANGEROUS PROFESSIONAL MISSIONS</p> <p>بطاقة الهوية الخاصة بالصحفيين المكلفين بمهام مهنية خطيرة</p>
<p>NOTA</p> <p>Los detalles de las misiones profesionales peligrosas en zonas de conflicto armado se regulan en el artículo 13 del Protocolo Adicional I a los Convenios de Ginebra de 12 de agosto de 1949 y el Protocolo Adicional II. Las reglas aplican en todas las circunstancias de conflicto armado, incluidas las zonas ocupadas, y a las personas en las zonas ocupadas.</p>	<p>TARJETA DE IDENTIDAD DE PERIODISTA EN MISION PELIGROSA</p>
<p>AVIS</p> <p>Les détails des missions professionnelles dangereuses en zones de conflit armé sont réglés par l'article 13 du Protocole I additionnel aux Conventions de Genève de 12 août 1949 et le Protocole II additionnel. Les règles s'appliquent dans toutes les circonstances de conflit armé, y compris les zones occupées, et aux personnes dans les zones occupées.</p>	<p>САРТКА Д'ІДЕНТИТЕ ДІ ЖУРНАЛІСТА ЕН МІСІОН ПЕРИЛІЛІСЬ</p>
<p>ПРИЗНАЧЕНИЕ</p> <p>Правила выполнения опасных профессиональных миссий в зонах вооруженного конфликта регулируются в статье 13 Дополнительного протокола I к Женевским конвенциям от 12 августа 1949 года и Дополнительного протокола II. Правила применяются в любых обстоятельствах вооруженного конфликта, включая оккупированные территории, и к лицам в оккупированных территориях.</p>	<p>УДОСТОВЕРЕНИЕ ЖУРНАЛИСТА, НАХОДЯЩЕГОСЯ В ОПАСНОЙ КОМАНДИРОВКЕ</p>

INTERNATIONAL HUMANITARIAN LAW

APPENDICE

X

Document printed from the ICRC web site on the 08.01.2008

Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), 8 June 1977.

Introduction

General title	Diplomatic Conference of Geneva of 1974-1977.
Forum of adoption	Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law applicable in Armed Conflicts
in force	yes
Entry into force	07.12.1978

The only provision applicable to non-international armed conflicts before the adoption of the present Protocol was Article 3 common to all four Geneva Conventions of 1949. This Article proved to be inadequate in view of the fact that about 80% of the victims of armed conflicts since 1945 have been victims of non-international conflicts and that non-international conflicts are often fought with more cruelty than international conflicts. The aim of the present Protocol is to extend the essential rules of the law of armed conflicts to internal wars. The fear that the Protocol might affect State sovereignty, prevent governments from effectively maintaining law and order within their borders and that it might be invoked to justify outside intervention led to the decision of the Diplomatic Conference at its fourth session to shorten and simplify the Protocol. Instead of the 47 Articles proposed by the ICRC the Conference adopted only 28. The essential substance of the draft was, however, maintained. The part on methods and means of combat was deleted, but its basic principles are to be found in Article 4 (fundamental guarantees). The provisions on the activity of impartial humanitarian organizations were adopted in a less binding form than originally foreseen. The restrictive definition of the material field of application in Article 1 will have the effect that Protocol II will be applicable to a smaller range of internal conflicts than Article 3 common to the Conventions of 1949.

Meetings of forum	1st session:20.02.1974 - 29.03.1974, Geneva #2nd session:03.02.1975 - 18.04.1975 Geneva #3rd session:21.04.1976 - 11.06.1976, Geneva #4th session:17.03.1977 - 10.06.1977, Geneva
Date of adoption	08.06.1977
Depositary	Switzerland
Number of articles	28
Authentic text	English; Arabic; Chinese; Spanish; French; Russian

INTERNATIONAL HUMANITARIAN LAW

International Committee of the Red Cross

Document printed from the ICRC web site on the 08.01.2008

Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), 8 June 1977.

Full text

Preamble

The High Contracting Parties, Recalling that the humanitarian principles enshrined in Article 3 common to the Geneva Conventions of 12 August 1949, constitute the foundation of respect for the human person in cases of armed conflict not of an international character,

Recalling furthermore that international instruments relating to human rights offer a basic protection to the human person,

Emphasizing the need to ensure a better protection for the victims of those armed conflicts,

Recalling that, in cases not covered by the law in force, the human person remains under the protection of the principles of humanity and the dictates of the public conscience,

Have agreed on the following:

Part I: Scope of this Protocol

Art 1. Material field of application

1. This Protocol, which develops and supplements Article 3 common to the Geneva Conventions of 12 August 1949 without modifying its existing conditions or application, shall apply to all armed conflicts which are not covered by Article 1 of the Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I) and which take place in the territory of a High Contracting Party between its armed forces and dissident armed forces or other organized armed groups which, under responsible command, exercise such control over a part of its territory as to enable them to carry out sustained and concerted military operations and to implement this Protocol.

2. This Protocol shall not apply to situations of internal disturbances and tensions, such as riots, isolated and sporadic acts of violence and other acts of a similar nature, as not being armed conflicts.

Art 2. Personal field of application

1. This Protocol shall be applied without any adverse distinction founded on race, colour, sex, language, religion or belief, political or other opinion, national or social origin, wealth, birth or other status, or on any other similar criteria (hereinafter referred to as "adverse distinction") to all persons affected by an armed conflict as defined in Article 1.

2. At the end of the armed conflict, all the persons who have been deprived of their liberty or whose liberty has been restricted for reasons related to such conflict, as well as those deprived of their liberty or whose liberty is restricted after the conflict for the same reasons, shall enjoy the protection of Articles 5 and 6 until the end of such deprivation or restriction of liberty.

Art 3. Non-intervention

1. Nothing in this Protocol shall be invoked for the purpose of affecting the sovereignty of a State or the responsibility of the government, by all legitimate means, to maintain or re-establish law and order in the State or to defend the national unity and territorial integrity of the State.

2. Nothing in this Protocol shall be invoked as a justification for intervening, directly or indirectly, for any reason whatever, in the armed conflict or in the internal or external affairs of the High Contracting Party in the

territory of which that conflict occurs.

Part II. Humane Treatment

Part 4 Fundamental guarantees

1. All persons who do not take a direct part or who have ceased to take part in hostilities, whether or not their liberty has been restricted, are entitled to respect for their person, honour and convictions and religious practices. They shall in all circumstances be treated humanely, without any adverse distinction. It is prohibited to order that there shall be no survivors.

2. Without prejudice to the generality of the foregoing, the following acts against the persons referred to in paragraph 1 are and shall remain prohibited at any time and in any place whatsoever:

- a) violence to the life, health and physical or mental well-being of persons, in particular murder as well as cruel treatment such as torture, mutilation or any form of corporal punishment;
- b) collective punishments;
- c) taking of hostages;
- d) acts of terrorism;
- e) outrages upon personal dignity, in particular humiliating and degrading treatment, rape, enforced prostitution and any form or indecent assault;
- f) slavery and the slave trade in all their forms;
- g) pillage;
- h) threats to commit any or the foregoing acts.

3. Children shall be provided with the care and aid they require, and in particular:

- a) they shall receive an education, including religious and moral education, in keeping with the wishes of their parents, or in the absence of parents, of those responsible for their care;
- b) all appropriate steps shall be taken to facilitate the reunion of families temporarily separated;
- c) children who have not attained the age of fifteen years shall neither be recruited in the armed forces or groups nor allowed to take part in hostilities;
- d) the special protection provided by this Article to children who have not attained the age of fifteen years shall remain applicable to them if they take a direct part in hostilities despite the provisions of subparagraph c) and are captured;
- e) measures shall be taken, if necessary, and whenever possible with the consent of their parents or persons who by law or custom are primarily responsible for their care, to remove children temporarily from the area in which hostilities are taking place to a safer area within the country and ensure that they are accompanied by persons responsible for their safety and well-being.

Part 5. Persons whose liberty has been restricted

1. In addition to the provisions of Article 4 the following provisions shall be respected as a minimum with regard to persons deprived of their liberty for reasons related to the armed conflict, whether they are interned or detained:

- a) the wounded and the sick shall be treated in accordance with Article 7;
- b) the persons referred to in this paragraph shall, to the same extent as the local civilian population, be provided with food and drinking water and be afforded safeguards as regards health and hygiene and protection against the rigours of the climate and the dangers of the armed conflict;
- c) they shall be allowed to receive individual or collective relief;
- d) they shall be allowed to practise their religion and, if requested and appropriate, to receive spiritual assistance from persons, such as chaplains, performing religious functions;
- e) they shall, if made to work, have the benefit of working conditions and safeguards similar to those enjoyed by the local civilian population.

2. Those who are responsible for the internment or detention of the persons referred to in paragraph 1 shall also, within the limits of their capabilities, respect the following provisions relating to such persons:

- (a) except when men and women of a family are accommodated together, women shall be held in quarters separated from those of men and shall be under the immediate supervision of women;
- (b) they shall be allowed to send and receive letters and cards, the number of which may be limited by competent authority if it deems necessary;
- (c) places of internment and detention shall not be located close to the combat zone. The persons referred to in paragraph 1 shall be evacuated when the places where they are interned or detained become particularly exposed to danger arising out of the armed conflict, if their evacuation can be carried out under adequate conditions of safety;
- (d) they shall have the benefit of medical examinations;
- (e) their physical or mental health and integrity shall not be endangered by any unjustified act or omission.

Accordingly, it is prohibited to subject the persons described in this Article to any medical procedure which is not indicated by the state of health of the person concerned, and which is not consistent with the generally accepted medical standards applied to free persons under similar medical circumstances.

3. Persons who are not covered by paragraph 1 but whose liberty has been restricted in any way whatsoever for reasons related to the armed conflict shall be treated humanely in accordance with Article 4 and with paragraphs 1 (a), (c) and (d), and 2 (b) of this Article.

4. If it is decided to release persons deprived of their liberty, necessary measures to ensure their safety shall be taken by those so deciding.

Art 6. Penal prosecutions

1. This Article applies to the prosecution and punishment of criminal offences related to the armed conflict.

2. No sentence shall be passed and no penalty shall be executed on a person found guilty of an offence except pursuant to a conviction pronounced by a court offering the essential guarantees of independence and impartiality.

In particular:

(a) the procedure shall provide for an accused to be informed without delay of the particulars of the offence alleged against him and shall afford the accused before and during his trial all necessary rights and means of defence;

(b) no one shall be convicted of an offence except on the basis of individual penal responsibility;

(c) no one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence, under the law, at the time when it was committed; nor shall a heavier penalty be imposed than that which was applicable at the time when the criminal offence was committed; if, after the commission of the offence, provision is made by law for the imposition of a lighter penalty, the offender shall benefit thereby;

(d) anyone charged with an offence is presumed innocent until proved guilty according to law;

(e) anyone charged with an offence shall have the right to be tried in his presence;

(f) no one shall be compelled to testify against himself or to confess guilt.

3. A convicted person shall be advised on conviction of his judicial and other remedies and of the time-limits within which they may be exercised.

4. The death penalty shall not be pronounced on persons who were under the age of eighteen years at the time of the offence and shall not be carried out on pregnant women or mothers of young children.

5. At the end of hostilities, the authorities in power shall endeavour to grant the broadest possible amnesty to persons who have participated in the armed conflict, or those deprived of their liberty for reasons related to the armed conflict, whether they are interned or detained.

Part III. Wounded, Sick and Shipwrecked

Art 7. Protection and care

1. All the wounded, sick and shipwrecked, whether or not they have taken part in the armed conflict, shall be respected and protected.

2. In all circumstances they shall be treated humanely and shall receive to the fullest extent practicable and with the least possible delay, the medical care and attention required by their condition. There shall be no distinction among them founded on any grounds other than medical ones.

Art 8. Search

Whenever circumstances permit and particularly after an engagement, all possible measures shall be taken, without delay, to search for and collect the wounded, sick and shipwrecked, to protect them against pillage and ill-treatment, to ensure their adequate care, and to search for the dead, prevent their being despoiled, and decently dispose of them.

Art 9. Protection of medical and religious personnel

1. Medical and religious personnel shall be respected and protected and shall be granted all available help for the performance of their duties. They shall not be compelled to carry out tasks which are not compatible with their humanitarian mission.

2. In the performance of their duties medical personnel may not be required to give priority to any person except on medical grounds.

Art 10. General protection of medical duties

1. Under no circumstances shall any person be punished for having carried out medical activities compatible with medical ethics, regardless of the person benefiting therefrom.

2. Persons engaged in medical activities shall neither be compelled to perform acts or to carry out work contrary to, nor be compelled to refrain from acts required by, the rules of medical ethics or other rules designed for the benefit of the wounded and sick, or this Protocol.

3. The professional obligations of persons engaged in medical activities regarding information which they may acquire concerning the wounded and sick under their care shall, subject to national law, be respected.

4. Subject to national law, no person engaged in medical activities may be penalized in any way for refusing or failing to give information concerning the wounded and sick who are, or who have been, under his care.

Art 11. Protection of medical units and transports

1. Medical units and transports shall be respected and protected at all times and shall not be the object of attack.

2. The protection to which medical units and transports are entitled shall not cease unless they are used to commit hostile acts, outside their humanitarian function. Protection may, however, cease only after a warning has been given, setting, whenever appropriate, a reasonable time-limit, and after such warning has remained unheeded.

Art 12. The distinctive emblem

Under the direction of the competent authority concerned, the distinctive emblem of the red cross, red crescent or red lion and sun on a white ground shall be displayed by medical and religious personnel and medical units, and on medical transports. It shall be respected in all circumstances. It shall not be used improperly.

Part IV. Civilian Population

Art 13. Protection of the civilian population

1. The civilian population and individual civilians shall enjoy general protection against the dangers arising from military operations. To give effect to this protection, the following rules shall be observed in all circumstances.

2. The civilian population as such, as well as individual civilians, shall not be the object of attack. Acts or threats of violence the primary purpose of which is to spread terror among the civilian population are prohibited.

3. Civilians shall enjoy the protection afforded by this part, unless and for such time as they take a direct part in hostilities.

Art 14. Protection of objects indispensable to the survival of the civilian population

Starvation of civilians as a method of combat is prohibited. It is therefore prohibited to attack, destroy, remove or render useless for that purpose, objects indispensable to the survival of the civilian population such as

food-stuffs, agricultural areas for the production of food-stuffs, crops, livestock, drinking water installations and supplies and irrigation works.

Art 15. Protection of works and installations containing dangerous forces

Works or installations containing dangerous forces, namely dams, dykes and nuclear electrical generating stations, shall not be made the object of attack, even where these objects are military objectives, if such attack may cause the release of dangerous forces and consequent severe losses among the civilian population.

Art 16. Protection of cultural objects and of places of worship

Without prejudice to the provisions of the Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict of 14 May 1954, it is prohibited to commit any acts of hostility directed against historic monuments, works of art or places of worship which constitute the cultural or spiritual heritage of peoples, and to use them in support of the military effort.

Art 17. Prohibition of forced movement of civilians

1. The displacement of the civilian population shall not be ordered for reasons related to the conflict unless the security of the civilians involved or imperative military reasons so demand. Should such displacements have to be carried out, all possible measures shall be taken in order that the civilian population may be received under satisfactory conditions of shelter, hygiene, health, safety and nutrition.

2. Civilians shall not be compelled to leave their own territory for reasons connected with the conflict.

Art 18. Relief societies and relief actions

1. Relief societies located in the territory of the High Contracting Party, such as Red Cross (Red Crescent, Red Lion and Sun) organizations may offer their services for the performance of their traditional functions in relation to the victims of the armed conflict. The civilian population may, even on its own initiative, offer to collect and care for the wounded, sick and shipwrecked.

2. If the civilian population is suffering undue hardship owing to a lack of the supplies essential for its survival, such as food-stuffs and medical supplies, relief actions for the civilian population which are of an exclusively humanitarian and impartial nature and which are conducted without any adverse distinction shall be undertaken subject to the consent of the High Contracting Party concerned.

Part V. Final Provisions

Art 19. Dissemination

This Protocol shall be disseminated as widely as possible.

Art 20. Signature

This Protocol shall be open for signature by the Parties to the Conventions six months after the signing of the Final Act and will remain open for a period of twelve months.

Art 21. Ratification

This Protocol shall be ratified as soon as possible. The instruments of ratification shall be deposited with the Swiss Federal Council, depositary of the Conventions.

Art 22. Accession

This Protocol shall be open for accession by any Party to the Conventions which has not signed it. The

Instruments of accession shall be deposited with the depositary.

Art 23. Entry into force

1. This Protocol shall enter into force six months after two instruments of ratification or accession have been deposited.
2. For each Party to the Conventions thereafter ratifying or acceding to this Protocol, it shall enter into force six months after the deposit by such Party of its instrument of ratification or accession.

Art 24. Amendment

1. Any High Contracting Party may propose amendments to this Protocol. The text of any proposed amendment shall be communicated to the depositary which shall decide, after consultation with all the High Contracting Parties and the International Committee of the Red Cross, whether a conference should be convened to consider the proposed amendment.
2. The depositary shall invite to that conference all the High Contracting Parties as well as the Parties to the Conventions, whether or not they are signatories of this Protocol.

Art 25. Denunciation

1. In case a High Contracting Party should denounce this Protocol, the denunciation shall only take effect six months after receipt of the instrument of denunciation. If, however, on the expiry of six months, the denouncing Party is engaged in the situation referred to in Article 1, the denunciation shall not take effect before the end of the armed conflict. Persons who have been deprived of liberty, or whose liberty has been restricted, for reasons related to the conflict shall nevertheless continue to benefit from the provisions of this Protocol until their final release.
2. The denunciation shall be notified in writing to the depositary, which shall transmit it to all the High Contracting Parties.

Art 26. Notifications

- The depositary shall inform the High Contracting Parties as well as the Parties to the Conventions, whether or not they are signatories of this Protocol, of:
- a) signatures affixed to this Protocol and the deposit of instruments of ratification and accession under Articles 21 and 22;
 - b) the date of entry into force of this Protocol under Article 23; and
 - c) communications and declarations received under Article 24.

Art 27. Registration

1. After its entry into force, this Protocol shall be transmitted by the depositary to the Secretariat of the United Nations for registration and publication, in accordance with Article 102 of the Charter of the United Nations.
2. The depositary shall also inform the Secretariat of the United Nations of all ratifications, accessions and denunciations received by it with respect to this Protocol.

Art 28. - Authentic texts

The original of this Protocol, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the depositary, which shall transmit certified true copies thereof to all the Parties to the Conventions.

I N T E R N A T I O N A L H U M A N I T A R I A N L A W

International Committee of the Red Cross

APPENDICE

XI

Document printed from the ICRC web site on the 08.01.2008

Annex I (to the Protocol I) : Regulations concerning identification as amended on 30 November 1993)

Introduction

Forum of adoption	Meeting of technical experts
Entered into force	yes
Entered into force	01.03.1994

On the basis of Article 98 of 1977 Protocol I additional to the 1949 Geneva Conventions, and after consulting the States party to the said Protocol, in 1989 the ICRC called a meeting of technical experts to review Annex I (Regulations concerning identification) to this Protocol.

At the end of the meeting, which was held in Geneva in August 1990, the experts proposed a number of amendments. In accordance with the provisions of Article 98 of Protocol I, the ICRC requested the Swiss Confederation, depositary State of the Geneva Conventions and their Additional Protocols, to initiate the procedure laid down for inviting States party to adopt the proposed amendments. The main purpose of the latter was to incorporate into Annex I of Protocol I certain technical provisions already adopted by the competent international organizations.

To simplify matters, and bearing in mind that these amendments reflect the points of view of a large number of experts from many countries, the depositary suggested that instead of holding a diplomatic conference the amendments be adopted by correspondence. After consultation, the States party to Protocol I agreed to the suggested procedure. These same States were then asked to declare whether they accepted or rejected the amendments to Annex I to Additional Protocol I proposed by the technical experts in 1990.

On 21 October 1992, the Swiss Confederation informed the ICRC that, of the twenty-two States party to Protocol I which had replied, nineteen were in favour of the proposed amendments. Only Hungary, Jordan and Sweden had expressed reservations.

When more than two thirds of the High Contracting Parties which replied (Article 98, para. 3) had decided in favour of the amendments, the latter would be considered to have been adopted at the end of a period of one year after the date on which they had been officially communicated by the Swiss Confederation to the States party, i.e. 30 November 1992, unless within that period a declaration of non-acceptance of the amendments had been communicated to the authorities by not less than one third of all the parties to Protocol I (Article 98, para. 4).

This one-year period ended on 30 November 1993 and, since no further declarations of non-acceptance of the amendments were communicated to the depositary during the period, the amendments in the form proposed by the experts are accepted and entered into force on 1 March 1994 for all parties to Protocol I.

With the exception of those parties which made reservations or declarations of non-acceptance during the one-year period, i.e. Sweden, which rejected the wording of Articles 7 and 8 (former Articles 6 and 7), and Jordan, which wishes to retain the original wording of paragraph 1 (c) of Article 2 (formerly Article 1). Hungary has since withdrawn its reservation.

Meetings of forum	Geneva, August 1990
Date of adoption	30.11.1993
Depositary	Switzerland
Number of articles	17
Authentic text	English; Arabic; Chinese; Spanish; French; Russian

INTERNATIONAL HUMANITARIAN LAW

International Committee of the Red Cross

Document printed from the ICRC web site on the 08.01.2008

Annex I (to the Protocol I) : Regulations concerning identification as amended on 30 November 1993)

Full text

ANNEX I AS AMENDED ON 30 NOVEMBER 1993: REGULATIONS CONCERNING IDENTIFICATION

[This Annex I replaced former Annex I]

Article 1 - General provisions (New article)

1. The regulations concerning identification in this Annex implement the relevant provisions of the Geneva Conventions and the Protocol; they are intended to facilitate the identification of personnel, material, units, transports and installations protected under the Geneva Conventions and the Protocol.
2. These rules do not in and of themselves establish the right to protection. This right is governed by the relevant articles in the Conventions and the Protocol.
3. The competent authorities may, subject to the relevant provisions of the Geneva Conventions and the Protocol, at all times regulate the use, display, illumination and detectability of the distinctive emblems and signals.
4. The High Contracting Parties and in particular the Parties to the conflict are invited at all times to agree upon additional or other signals, means or systems which enhance the possibility of identification and take full advantage of technological developments in this field.

CHAPTER I - IDENTITY CARDS

Article 2 - Identity card for permanent civilian medical and religious personnel

1. The identity card for permanent civilian medical and religious personnel referred to in Article 18, paragraph 3, of the Protocol should:
 - (a) bear the distinctive emblem and be of such size that it can be carried in the pocket;
 - (b) be as durable as practicable;
 - (c) be worded in the national or official language and, in addition and when appropriate, in the local language of the region concerned;
 - (d) mention the name, the date of birth (or, if that date is not available, the age at the time of issue) and the identity number, if any, of the holder;
 - (e) state in what capacity the holder is entitled to the protection of the Conventions and of the Protocol;
 - (f) bear the photograph of the holder as well as his signature or his thumbprint, or both;
 - (g) bear the stamp and signature of the competent authority;
 - (h) state the date of issue and date of expiry of the card;
 - (i) indicate, whenever possible, the holder's blood group, on the reverse side of the card.
2. The identity card shall be uniform throughout the territory of each High Contracting Party and, as far as possible, of the same type for all Parties to the conflict. The Parties to the conflict may be guided by the single-language model shown in Figure 1. At the outbreak of hostilities, they shall transmit to each other a specimen of the model they are using, if such model differs from that shown in Figure 1. The identity card shall be made out, if possible, in duplicate, one copy being kept by the issuing authority, which should maintain control of the cards which it has issued.
3. In no circumstances may permanent civilian medical and religious personnel be deprived of their identity

cards. In the event of the loss of a card, they shall be entitled to obtain a duplicate copy.

Article 3 - Identity card for temporary civilian medical and religious personnel

1. The identity card for temporary civilian medical and religious personnel should, whenever possible, be similar to that provided for in Article 2 of these Regulations. The Parties to the conflict may be guided by the model shown in Figure 1.
2. When circumstances preclude the provision to temporary civilian medical and religious personnel of identity cards similar to those described in Article 2 of these Regulations, the said personnel may be provided with a certificate signed by the competent authority certifying that the person to whom it is issued is assigned to duty as temporary personnel and stating, if possible, the duration of such assignment and his right to wear the distinctive emblem. The certificate should mention the holder's name and date of birth (or if that is not available, his age at the time when the certificate was issued), his function and identity number, if any. It shall bear his signature or his thumbprint, or both.

CHAPTER II - THE DISTINCTIVE EMBLEM

Article 4 - Shape

The distinctive emblem (red on a white ground) shall be as large as appropriate under the circumstances. For the shapes of the cross, the crescent or the lion and sun*, the High Contracting Parties may be guided by the models shown in Figure 2.

* No State has used the emblem of the lion and sun since 1980.

Article 5 - Use

1. The distinctive emblem shall, whenever possible, be displayed on a flat surface, on flags or in any other way appropriate to the lay of the land, so that it is visible from as many directions and from as far away as possible, and in particular from the air.
2. At night or when visibility is reduced, the distinctive emblem may be lighted or illuminated.
3. The distinctive emblem may be made of materials which make it recognizable by technical means of detecting. The red part should be painted on top of black primer paint in order to facilitate its identification, in particular by infrared instruments.
4. Medical and religious personnel carrying out their duties in the battle area shall, as far as possible, wear headgear and clothing bearing the distinctive emblem.

CHAPTER III - DISTINCTIVE SIGNALS

Article 6 - Use

1. All distinctive signals specified in this Chapter may be used by medical units or transports.
2. These signals, at the exclusive disposal of medical units and transports, shall not be used for any other purpose, the use of the light signal being reserved (see paragraph 3 below).
3. In the absence of a special agreement between the Parties to the conflict reserving the use of flashing blue lights for the identification of medical vehicles, ships and craft, the use of such signals for other vehicles, ships and craft is not prohibited.
4. Temporary medical aircraft which cannot, either for lack of time or because of their characteristics, be marked with the distinctive emblem, may use the distinctive signals authorized in this Chapter.

Article 7 - Light signal

1. The light signal, consisting of a flashing blue light as defined in the Airworthiness Technical Manual of the International Civil Aviation Organization (ICAO) Doc. 9051, is established for the use of medical aircraft to signal their identity. No other aircraft shall use this signal. Medical aircraft using the flashing blue light should

exhibit such lights as may be necessary to make the light signal visible from as many directions as possible.

2. In accordance with the provisions of Chapter XIV, para. 4 of the International Maritime Organization (IMO) International Code of Signals, vessels protected by the Geneva Conventions of 1949 and the Protocol should exhibit one or more flashing blue lights visible from any direction.

3. Medical vehicles should exhibit one or more flashing blue lights visible from as far away as possible. The High Contracting Parties and, in particular, the Parties to the conflict which use lights of other colours should give notification of this.

4. The recommended blue colour is obtained when its chromaticity is within the boundaries of the International Commission on Illumination (CIE) chromaticity diagram defined by the following equations:

green boundary $y = 0.065 + 0.805x$;

white boundary $y = 0.400 - x$;

purple boundary $x = 0.133 + 0.600y$.

The recommended flashing rate of the blue light is between sixty and one hundred flashes per minute.

Article 8 - Radio signal

1. The radio signal shall consist of the urgency signal and the distinctive signal as described in the International Telecommunication Union (ITU) Radio Regulations (RR Articles 40 and N 40).

2. The radio message preceded by the urgency and distinctive signals mentioned in paragraph 1 shall be transmitted in English at appropriate intervals on a frequency or frequencies specified for this purpose in the Radio Regulations, and shall convey the following data relating to the medical transports concerned:

- (a) call sign or other recognized means of identification;
- (b) position;
- (c) number and type of vehicles;
- (d) intended route;
- (e) estimated time en route and of departure and arrival, as appropriate;
- (f) any other information, such as flight altitude, guarded radio frequencies, languages used and secondary surveillance radar modes and codes.

3. In order to facilitate the communications referred to in paragraphs 1 and 2, as well as the communications referred to in Articles 22, 23 and 25 to 31 of the Protocol, the High Contracting Parties, the Parties to a conflict, or one of the Parties to a conflict, acting in agreement or alone, may designate, in accordance with the Table of Frequency Allocations in the Radio Regulations annexed to the International Telecommunication Convention, and publish selected national frequencies to be used by them for such communications. The International Telecommunication Union shall be notified of these frequencies in accordance with procedures approved by a World Administrative Radio Conference.

Article 9 - Electronic identification

1. The Secondary Surveillance Radar (SSR) system, as specified in Annex 10 to the Chicago Convention on International Civil Aviation of 7 December 1944, as amended from time to time, may be used to identify and to follow the course of medical aircraft. The SSR mode and code to be reserved for the exclusive use of medical aircraft shall be established by the High Contracting Parties, the Parties to a conflict, or one of the Parties to a conflict, acting in agreement or alone, in accordance with procedures to be recommended by the International Civil Aviation Organization.

2. Protected medical transports may, for their identification and location, use standard aeronautical radar transponders and/or maritime search and rescue radar transponders.

It should be possible for protected medical transports to be identified by other vessels or aircraft equipped with secondary surveillance radar by means of a code transmitted by a radar transponder, e.g. in mode 3/A, fitted on the medical transports.

The code transmitted by the medical transport transponder should be assigned to that transport by the competent authorities and notified to all the Parties to the conflict.

3. It should be possible for medical transports to be identified by submarines by the appropriate underwater

acoustic signals transmitted by the medical transports.

The underwater acoustic signal shall consist of the call sign (or any other recognized means of identification of medical transport) of the ship preceded by the single group YYY transmitted in morse on an appropriate acoustic frequency, e.g. 5kHz.

Parties to a conflict wishing to use the underwater acoustic identification signal described above shall inform the Parties concerned of the signal as soon as possible, and shall, when notifying the use of their hospital ships, confirm the frequency to be employed.

4. Parties to a conflict may, by special agreement between them, establish for their use a similar electronic system for the identification of medical vehicles, and medical ships and craft.

CHAPTER IV - COMMUNICATIONS

Article 10 - Radiocommunications

1. The urgency signal and the distinctive signal provided for in Article 8 may precede appropriate radiocommunications by medical units and transports in the application of the procedures carried out under Articles 22, 23 and 25 to 31 of the Protocol.

2. The medical transports referred to in Articles 40 (Section II, No. 3209) and N 40 (Section III, No. 3214) of the ITU Radio Regulations may also transmit their communications by satellite systems, in accordance with the provisions of Articles 37, N 37 and 59 of the ITU Radio Regulations for the Mobile-Satellite Services.

Article 11 - Use of international codes

Medical units and transports may also use the codes and signals laid down by the International telecommunication Union, the International Civil Aviation Organization and the International Maritime Organization. These codes and signals shall be used in accordance with the standards, practices and procedures established by these Organizations.

Article 12 - Other means of communication

When two-way radiocommunication is not possible, the signals provided for in the International Code of Signals adopted by the International Maritime Organization or in the appropriate Annex to the Chicago Convention on International Civil Aviation of 7 December 1944, as amended from time to time, may be used.

Article 13 - Flight plans

The agreements and notifications relating to flight plans provided for in Article 29 of the Protocol shall as far as possible be formulated in accordance with procedures laid down by the International Civil Aviation Organization.

Article 14 - Signals and procedures for the interception of medical aircraft

If an intercepting aircraft is used to verify the identity of a medical aircraft in flight or to require it to land in accordance with Articles 30 and 31 of the Protocol, the standard visual and radio interception procedures prescribed by Annex 2 to the Chicago Convention on International Civil Aviation of 7 December 1944, as amended from time to time, should be used by the intercepting and the medical aircraft.

CHAPTER V - CIVIL DEFENCE

Article 15 - Identity card

1. The identity card of the civil defence personnel provided for in Article 66, paragraph 3, of the Protocol is governed by the relevant provisions of Article 2 of these Regulations.

2. The identity card for civil defence personnel may follow the model shown in Figure 3.

3. If civil defence personnel are permitted to carry light individual weapons, an entry to that effect should be made on the card mentioned.

Article 16 - International distinctive sign

1. The international distinctive sign of civil defence provided for in Article 66, paragraph 4, of the Protocol is an equilateral blue triangle on an orange ground. A model is shown in Figure 4:

2. It is recommended that:

- (a) if the blue triangle is on a flag or armlet or tabard, the ground to the triangle be the orange flag, armlet or tabard;
- (b) one of the angles of the triangle be pointed vertically upwards;
- (c) no angle of the triangle touch the edge of the orange ground.

3. The international distinctive sign shall be as large as appropriate under the circumstances. The distinctive sign shall, whenever possible, be displayed on flat surfaces or on flags visible from as many directions and from as far away as possible. Subject to the instructions of the competent authority, civil defence personnel shall, as far as possible, wear headgear and clothing bearing the international distinctive sign. At night or when visibility is reduced, the sign may be lighted or illuminated; it may also be made of materials rendering it recognizable by technical means of detection.

CHAPTER VI - WORKS AND INSTALLATIONS CONTAINING DANGEROUS FORCES

Article 17 - International special sign

1. The international special sign for works and installations containing dangerous forces, as provided for in Article 56, paragraph 7, of the Protocol, shall be a group of three bright orange circles of equal size, placed on the same axis, the distance between each circle being one radius, in accordance with Figure 5 illustrated below.

2. The sign shall be as large as appropriate under the circumstances. When displayed over an extended surface it may be repeated as often as appropriate under the circumstances. It shall, whenever possible, be displayed on flat surfaces or on flags so as to be visible from as many directions and from as far away as possible.

3. On a flag, the distance between the outer limits of the sign and the adjacent sides of the flag shall be one radius of a circle. The flag shall be rectangular and shall have a white ground.

4. At night or when visibility is reduced, the sign may be lighted or illuminated. It may also be made of materials rendering it recognizable by technical means of detection.

I N T E R N A T I O N A L H U M A N I T A R I A N L A W

International Committee of the Red Cross

APPENDICE

XII

Protocol additional to the Geneva Conventions of 12 August 1949, and relating to the Adoption of an Additional Distinctive Emblem (Protocol III), 8 December 2005

Introduction

Forum of adoption Diplomatic Conference of 2005

in force no

Entry into force 14.01.2007

Since the nineteenth century the red cross and red crescent emblems have been used as universal symbols of assistance for armed conflict victims. With the adoption of an additional emblem – the red crystal – a new chapter in their long history has just been written.

The original Geneva Convention, adopted on 22 August 1864, established the red cross emblem. From the beginning, the emblem was a visible sign of the neutral status and the protection granted by international humanitarian law to armed forces' medical services and volunteers belonging to relief societies for wounded military personnel. At the time, the adoption of a single distinctive symbol appeared to be an essential condition for this protection. By the end of the nineteenth century, however, the red crescent and the red lion and sun [1] were used by some States and relief societies instead of the red cross. Taking note of the *fait accompli*, the Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armies in the Field of 27 July 1929 granted international recognition to these two additional emblems. The Geneva Conventions of 12 August 1949 subsequently confirmed all three emblems.

The Commentary on Article 38 of the First Geneva Convention of 1949 clearly states that these emblems are intended "to signify one thing only – something which is, however, of immense importance: respect for the individual who suffers and is defenceless, who must be aided, whether friend or enemy, without distinction of nationality, race, religion, class or opinion." [2] Despite this assertion, the emblems are sometimes perceived in particular contexts as having a religious or political connotation. This perception is the cause of two major difficulties for the International Red Cross and Red Crescent Movement. First, it challenges the notion that neutrality and impartiality serve as the basis for the activities of all components of the Movement. As a consequence, the emblems are not given the respect they are due, which diminishes the protection afforded those displaying them. Second, it has led some States and relief societies to refuse to adopt any of the existing emblems on the grounds that none is suitable for them. Any such refusal prevents the Movement from attaining true universality, since its statutes lay down the use of one or the other of these symbols as a necessary condition for a National Society to be recognized and to become a full member of the Movement.

In order to correct these two problems, the States party to the Geneva Conventions adopted a third protocol additional to the Conventions at a diplomatic conference held in Geneva from 5 to 8 December 2005. This instrument recognizes an additional emblem – composed of a red frame in the shape of a square on edge on a white ground – commonly referred to as the red crystal.[3] The shape and name of this additional emblem were the result of a long selection process, the goal of which was to come up with a result devoid of any political, religious or other connotation and which could thus be used all over the world. The red crystal is not intended to replace the cross and crescent but to provide a further option.

The persons and entities authorized to display the red crystal are the same as those entitled to use the emblems recognized by the Geneva Conventions of 1949. These include in particular the medical services of the armed forces of States, civilian hospitals with explicit authorization and the various components of the International Red Cross and Red Crescent Movement – namely, the International Committee of the Red Cross (ICRC), the National Societies, and their International Federation. The recognized emblems are equivalent in meaning. They must be treated equally and receive equal protection in the national legislation of States.

The emblems may be employed in two different ways. As a protective device, an emblem is the visible sign of protection conferred by the Geneva Conventions. As an indicative device, an emblem shows that a person or object is linked to the International Red Cross and Red Crescent Movement. Additional Protocol III provides for the red crystal in its pure form to be used as a protective device. If used as an indicative device, however, the red crystal may have incorporated within it one of the emblems recognized by the Geneva Conventions, a combination of these emblems or another emblem which has been in effective use by a State party to Additional Protocol III and was the subject of a communication to the other States Parties and the ICRC prior to the adoption of the Protocol. It is important to note that Additional Protocol III authorizes not only the

permanent substitution of the red crystal for the red cross or red crescent as described above, but also temporary use of the red crystal in exceptional circumstances to enhance protection of armed forces' medical services or to facilitate the work of National Societies.

Additional Protocol III is drawn up in such a way as to prevent any future proliferation of other emblems.

Notes

1. The Islamic Republic of Iran – the only State to have employed the red lion and sun – has since abandoned its use.
2. Commentary on Article 38 of the Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, 1952, p. 305.
3. Protocol Additional III refers to this additional emblem as the “third Protocol emblem.” However, paragraph 14 of the final act of the diplomatic conference on the adoption of Protocol III specifies in this regard: “Although Protocol III referred to the additional emblem as the ‘third Protocol emblem,’ the ICRC and the [International Federation] informed the Conference that the designation ‘red crystal’ had gained currency and would be introduced formally at the next International Conference of the Red Cross and Red Crescent.”

Meetings of forum	5.12.2005 - 7.12.2005, Geneva
Date of adoption	8.12.2005
Depositary	Switzerland
Number of articles	17
Authentic text	English; Arabic; Chinese; Spanish; French; Russian

INTERNATIONAL HUMANITARIAN LAW

International Committee of the Red Cross

Protocol additional to the Geneva Conventions of 12 August 1949, and relating to the Adoption of an Additional Distinctive Emblem (Protocol III), 8 December 2005

Full text

Preamble

The High Contracting Parties,

(PP1) *Reaffirming* the provisions of the Geneva Conventions of 12 August 1949 (in particular Articles 26, 38, 42 and 44 of the First Geneva Convention) and, where applicable, their Additional Protocols of 8 June 1977 (in particular Articles 18 and 38 of Additional Protocol I and Article 12 of Additional Protocol II), concerning the use of distinctive emblems,

(PP2) *Desiring* to supplement the aforementioned provisions so as to enhance their protective value and universal character,

(PP3) *Noting* that this Protocol is without prejudice to the recognized right of High Contracting Parties to continue to use the emblems they are using in conformity with their obligations under the Geneva Conventions and, where applicable, the Protocols additional thereto,

(PP4) *Recalling* that the obligation to respect persons and objects protected by the Geneva Conventions and the Protocols additional thereto derives from their protected status under international law and is not dependent on use of the distinctive emblems, signs or signals,

(PP5) *Stressing* that the distinctive emblems are not intended to have any religious, ethnic, racial, regional or political significance,

(PP6) *Emphasizing* the importance of ensuring full respect for the obligations relating to the distinctive emblems recognized in the Geneva Conventions, and, where applicable, the Protocols additional thereto,

(PP7) *Recalling* that Article 44 of the First Geneva Convention makes the distinction between the protective use and the indicative use of the distinctive emblems,

(PP8) *Recalling further* that National Societies undertaking activities on the territory of another State must ensure that the emblems they intend to use within the framework of such activities may be used in the country where the activity takes place and in the country or countries of transit,

(PP9) *Recognizing* the difficulties that certain States and National Societies may have with the use of the existing distinctive emblems,

(PP10) *Noting* the determination of the International Committee of the Red Cross, the International Federation of Red Cross and Red Crescent Societies and the International Red Cross and Red Crescent Movement to retain their current names and emblems,

Have agreed on the following:

Article 1 - Respect for and scope of application of this Protocol

1. The High Contracting Parties undertake to respect and to ensure respect for this Protocol in all circumstances.
2. This Protocol reaffirms and supplements the provisions of the four Geneva Conventions of 12 August 1949 ("the Geneva Conventions") and, where applicable, of their two Additional Protocols of 8 June 1977 ("the 1977 Additional Protocols") relating to the distinctive emblems, namely the red cross, the red crescent and the red lion and sun, and shall apply in the same situations as those referred to in these provisions.

Article 2 - Distinctive emblems

1. This Protocol recognizes an additional distinctive emblem in addition to, and for the same purposes as, the distinctive emblems of the Geneva Conventions. The distinctive emblems shall enjoy equal status.
2. This additional distinctive emblem, composed of a red frame in the shape of a square on edge on a white ground, shall conform to the illustration in the Annex to this Protocol. This distinctive emblem is referred to in this Protocol as the "third Protocol emblem".
3. The conditions for use of and respect for the third Protocol emblem are identical to those for the distinctive emblems established by the Geneva Conventions and, where applicable, the 1977 Additional Protocols.
4. The medical services and religious personnel of armed forces of High Contracting Parties may, without prejudice to their current emblems, make temporary use of any distinctive emblem referred to in paragraph 1 of this Article where this may enhance protection.

Article 3 - Indicative use of the third Protocol emblem

1. National Societies of those High Contracting Parties which decide to use the third Protocol emblem may, in using the emblem in conformity with relevant national legislation, choose to incorporate within it, for indicative purposes:
 - a) a distinctive emblem recognized by the Geneva Conventions or a combination of these emblems; or
 - b) another emblem which has been in effective use by a High Contracting Party and was the subject of a communication to the other High Contracting Parties and the International Committee of the Red Cross through the depositary prior to the adoption of this Protocol.

Incorporation shall conform to the illustration in the Annex to this Protocol.

2. A National Society which chooses to incorporate within the third Protocol emblem another emblem in accordance with paragraph 1 above, may, in conformity with national legislation, use the designation of that emblem and display it within its national territory.
3. National Societies may, in accordance with national legislation and in exceptional circumstances and to facilitate their work, make temporary use of the distinctive emblem referred to in Article 2 of this Protocol.
4. This Article does not affect the legal status of the distinctive emblems recognized in the Geneva Conventions and in this Protocol, nor does it affect the legal status of any particular emblem when incorporated for indicative purposes in accordance with paragraph 1 of this Article.

Article 4 - International Committee of the Red Cross and International Federation of Red Cross and Red Crescent Societies

The International Committee of the Red Cross and the International Federation of Red Cross and Red Crescent Societies, and their duly authorized personnel, may use, in exceptional circumstances and to facilitate their work, the distinctive emblem referred to in Article 2 of this Protocol.

Article 5 - Missions under United Nations auspices

The medical services and religious personnel participating in operations under the auspices of the United Nations may, with the agreement of participating States, use one of the distinctive emblems mentioned in Articles 1 and 2.

Article 6 - Prevention and repression of misuse

1. The provisions of the Geneva Conventions and, where applicable, the 1977 Additional Protocols, governing prevention and repression of misuse of the distinctive emblems shall apply equally to the third Protocol emblem. In particular, the High Contracting Parties shall take measures necessary for the

prevention and repression, at all times, of any misuse of the distinctive emblems mentioned in Articles 1 and 2 and their designations, including the perfidious use and the use of any sign or designation constituting an imitation thereof.

2. Notwithstanding paragraph 1 above, High Contracting Parties may permit prior users of the third Protocol emblem, or of any sign constituting an imitation thereof, to continue such use, provided that the said use shall not be such as would appear, in time of armed conflict, to confer the protection of the Geneva Conventions and, where applicable, the 1977 Additional Protocols, and provided that the rights to such use were acquired before the adoption of this Protocol.

Article 7 - Dissemination

The High Contracting Parties undertake, in time of peace as in time of armed conflict, to disseminate this Protocol as widely as possible in their respective countries and, in particular, to include the study thereof in their programmes of military instruction and to encourage the study thereof by the civilian population, so that this instrument may become known to the armed forces and to the civilian population.

Article 8 - Signature

This Protocol shall be open for signature by the Parties to the Geneva Conventions on the day of its adoption and will remain open for a period of twelve months.

Article 9 - Ratification

This Protocol shall be ratified as soon as possible. The instruments of ratification shall be deposited with the Swiss Federal Council, depositary of the Geneva Conventions and the 1977 Additional Protocols.

Article 10 - Accession

This Protocol shall be open for accession by any Party to the Geneva Conventions which has not signed it. The instruments of accession shall be deposited with the depositary.

Article 11 - Entry into force

1. This Protocol shall enter into force six months after two instruments of ratification or accession have been deposited.
2. For each Party to the Geneva Conventions thereafter ratifying or acceding to this Protocol, it shall enter into force six months after the deposit by such Party of its instrument of ratification or accession.

Article 12 - Treaty relations upon entry into force of this Protocol

1. When the Parties to the Geneva Conventions are also Parties to this Protocol, the Conventions shall apply as supplemented by this Protocol.
2. When one of the Parties to the conflict is not bound by this Protocol, the Parties to the Protocol shall remain bound by it in their mutual relations. They shall furthermore be bound by this Protocol in relation to each of the Parties which are not bound by it, if the latter accepts and applies the provisions thereof.

Article 13 - Amendment

1. Any High Contracting Party may propose amendments to this Protocol. The text of any proposed amendment shall be communicated to the depositary, which shall decide, after consultation with all the High Contracting Parties, the International Committee of the Red Cross and the International Federation of Red Cross and Red Crescent Societies, whether a conference should be convened to consider the proposed amendment.
2. The depositary shall invite to that conference all the High Contracting Parties as well as the Parties to the Geneva Conventions, whether or not they are signatories of this Protocol.

Article 14 - Denunciation

1. In case a High Contracting Party should denounce this Protocol, the denunciation shall only take effect one year after receipt of the instrument of denunciation. If, however, on the expiry of that year the denouncing Party is engaged in a situation of armed conflict or occupation, the denunciation shall not take effect before the end of the armed conflict or occupation.
2. The denunciation shall be notified in writing to the depositary, which shall transmit it to all the High Contracting Parties.
3. The denunciation shall have effect only in respect of the denouncing Party.
4. Any denunciation under paragraph 1 shall not affect the obligations already incurred, by reason of the armed conflict or occupation, under this Protocol by such denouncing Party in respect of any act committed before this denunciation becomes effective.

Article 15 - Notifications

The depositary shall inform the High Contracting Parties as well as the Parties to the Geneva Conventions, whether or not they are signatories of this Protocol, of:

- a) signatures affixed to this Protocol and the deposit of instruments of ratification and accession under Articles 8, 9 and 10;
- b) the date of entry into force of this Protocol under Article 11 within ten days of said entry into force;
- c) communications received under Article 13;
- d) denunciations under Article 14.

Article 16 - Registration

1. After its entry into force, this Protocol shall be transmitted by the depositary to the Secretariat of the United Nations for registration and publication, in accordance with Article 102 of the Charter of the United Nations.
2. The depositary shall also inform the Secretariat of the United Nations of all ratifications, accessions and denunciations received by it with respect to this Protocol.

Article 17 - Authentic texts

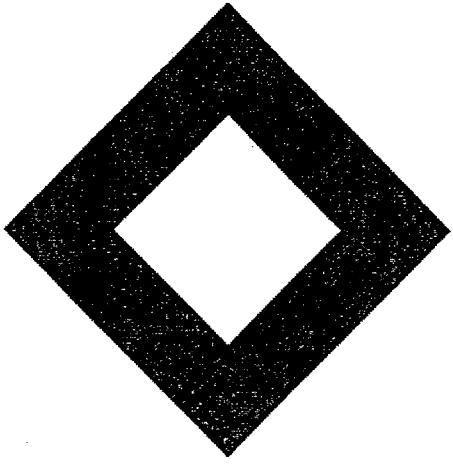
The original of this Protocol, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the depositary, which shall transmit certified true copies thereof to all the Parties to the Geneva Conventions.

ANNEX

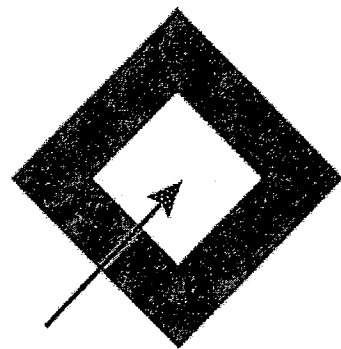
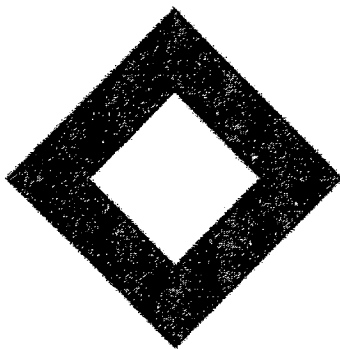
THIRD PROTOCOL EMBLEM

(Article 2, paragraph 2 and Article 3, paragraph 1 of the Protocol)

Article 1 - Distinctive emblem



Article 2 - Indicative use of the third Protocol emblem



Incorporation in
accordance with Art. 3

INTERNATIONAL HUMANITARIAN LAW

International Committee of the Red Cross

APPENDICE

XIII

Resolution 1483

May 22, 2003



Security Council

Distr.
GENERAL

SC/556

ORIGINAL: ENGLISH

The Security Council,

Recalling all its previous relevant resolutions,

Reaffirming the sovereignty and territorial integrity of Iraq,

Reaffirming also the importance of the disarmament of Iraqi weapons of mass destruction and of eventual confirmation of the disarmament of Iraq,

Stressing the right of the Iraqi people freely to determine their own political future and control their own natural resources, welcoming the commitment of all parties concerned to support the creation of an environment in which they may do so as soon as possible, and expressing resolve that the day when Iraqis govern themselves must come quickly,

Encouraging efforts by the people of Iraq to form a representative government based on the rule of law that affords equal rights and justice to all Iraqi citizens without regard to ethnicity, religion, or gender, and, in this connection, recalls resolution 1325 (2000) of 31 October 2000,

Welcoming the first steps of the Iraqi people in this regard, and noting in this connection the 15 April 2003 Nasiriyah statement and the 28 April 2003 Baghdad statement,

Resolved that the United Nations should play a vital role in humanitarian relief, the reconstruction of Iraq, and the restoration and establishment of national and local institutions for representative governance,

Noting the statement of 12 April 2003 by the Ministers of Finance and Central Bank Governors of the Group of Seven Industrialized Nations in which the members recognized the need for a multilateral effort to help rebuild and develop Iraq and for the need for assistance from the International Monetary Fund and the World Bank in these efforts,

Welcoming also the resumption of humanitarian assistance and the continuing efforts of the Secretary-General and the specialized agencies to provide food and medicine to the people of Iraq,

Welcoming the appointment by the Secretary-General of his Special Adviser on Iraq,

Affirming the need for accountability for crimes and atrocities committed by the previous Iraqi regime,

Stressing the need for respect for the archaeological, historical, cultural, and religious heritage of Iraq, and for the continued protection of archaeological, historical, cultural, and religious sites, museums, libraries, and monuments,

Noting the letter of 8 May 2003 from the Permanent Representatives of the United States of America and the United Kingdom of Great Britain and Northern Ireland to the President of the Security Council (S/2003/538) and recognizing the specific authorities, responsibilities, and obligations under applicable international law of these states as occupying powers under unified command (the "Authority"),

Noting further that other States that are not occupying powers are working now or in the future may work under the Authority,

Welcoming further the willingness of Member States to contribute to stability and security in Iraq by contributing personnel, equipment, and other resources under the Authority,

Concerned that many Kuwaitis and Third-State Nationals still are not accounted for since 2 August 1990,

Determining that the situation in Iraq, although improved, continues to constitute a threat to international peace and security,

Acting under Chapter VII of the Charter of the United Nations,

1. Appeals to Member States and concerned organizations to assist the people of Iraq in their efforts to reform their institutions and rebuild their country, and to contribute to conditions of stability and security in Iraq in accordance with this resolution;

2. Calls upon all Member States in a position to do so to respond immediately to the humanitarian appeals of the United Nations and other international organizations for Iraq and to help meet the humanitarian and other needs of the Iraqi people by providing food, medical supplies, and resources necessary for reconstruction and rehabilitation of Iraq's economic infrastructure;
3. Appeals to Member States to deny safe haven to those members of the previous Iraqi regime who are alleged to be responsible for crimes and atrocities and to support actions to bring them to justice;
4. Calls upon the Authority, consistent with the Charter of the United Nations and other relevant international law, to promote the welfare of the Iraqi people through the effective administration of the territory, including in particular working towards the restoration of conditions of security and stability and the creation of conditions in which the Iraqi people can freely determine their own political future;
5. Calls upon all concerned to comply fully with their obligations under international law including in particular the Geneva Conventions of 1949 and the Hague Regulations of 1907;
6. Calls upon the Authority and relevant organizations and individuals to continue efforts to locate, identify, and repatriate all Kuwaiti and Third-State Nationals or the remains of those present in Iraq on or after 2 August 1990, as well as the Kuwaiti archives, that the previous Iraqi regime failed to undertake, and, in this regard, directs the High-Level Coordinator, in consultation with the International Committee of the Red Cross and the Tripartite Commission and with the appropriate support of the people of Iraq and in coordination with the Authority, to take steps to fulfil his mandate with respect to the fate of Kuwaiti and Third-State National missing persons and property;
7. Decides that all Member States shall take appropriate steps to facilitate the safe return to Iraqi institutions, of Iraqi cultural property and other items of archaeological, historical, cultural, rare scientific, and religious importance illegally removed from the Iraq National Museum, the National Library, and other locations in Iraq since the adoption of resolution 661 (1990) of 2 August 1990, including by establishing a prohibition on trade in or transfer of such items and items with respect to which reasonable suspicion exists that they have been illegally removed, and calls upon the United Nations Educational, Scientific, and Cultural Organization, Interpol, and other international organizations, as appropriate, to assist in the implementation of this paragraph;
8. Requests the Secretary-General to appoint a Special Representative for Iraq whose independent responsibilities shall involve reporting regularly to the Council on his activities under this resolution, coordinating activities of the United Nations in post-conflict processes in Iraq, coordinating among United Nations and international

agencies engaged in humanitarian assistance and reconstruction activities in Iraq, and, in coordination with the Authority, assisting the people of Iraq through:

- (a) coordinating humanitarian and reconstruction assistance by United Nations agencies and between United Nations agencies and non-governmental organizations;
- (b) promoting the safe, orderly, and voluntary return of refugees and displaced persons;
- (c) working intensively with the Authority, the people of Iraq, and others concerned to advance efforts to restore and establish national and local institutions for representative governance, including by working together to facilitate a process leading to an internationally recognized, representative government of Iraq;
- (d) facilitating the reconstruction of key infrastructure, in cooperation with other international organizations;
- (e) promoting economic reconstruction and the conditions for sustainable development, including through coordination with national and regional organizations, as appropriate, civil society, donors and the international financial institutions;
- (f) encouraging international efforts to contribute to basic civilian administration functions;
- (g) promoting the protection of human rights;
- (h) encouraging international efforts to rebuild the capacity of the Iraqi civilian police force; and
- (i) encouraging international efforts to promote legal and judicial reform;

9. Supports the formation, by the people of Iraq with the help of the Authority and working with the Special Representative, of an Iraqi interim administration as a transitional administration run by Iraqis, until an internationally recognized, representative government is established by the people of Iraq and assumes the responsibilities of the Authority;

10. Decides that, with the exception of prohibitions related to the sale or supply to Iraq of arms and related materiel other than those arms and related materiel required by the Authority to serve the purposes of this and other related resolutions, all prohibitions related to trade with Iraq and the provision of financial or economic resources to Iraq established by resolution 661 (1990) and subsequent relevant resolutions, including resolution 778 (1992) of 2 October 1992, shall no longer apply;

11. Reaffirms that Iraq must meet its disarmament obligations, encourages the United Kingdom of Great Britain and Northern Ireland and the United States of America to keep the Council informed of their activities in this regard, and underlines the intention of the Council to revisit the mandates of the United Nations Monitoring and Verification Commission and the International Atomic Energy Agency as set forth in resolutions 687 (1991) of 3 April 1991, 1284 (1999) of 17 December 1999, and 1441 (2002) of 8 November 2002;

12. Notes the establishment of a Development Fund for Iraq to be held by the Central Bank of Iraq and to be audited by independent public accountants approved by the International Advisory and Monitoring Board of the Development Fund for Iraq and looks forward to the early meeting of that International Advisory and Monitoring Board, whose members shall include duly qualified representatives of the Secretary-General, of the Managing Director of the International Monetary Fund, of the Director-General of the Arab Fund for Social and Economic Development, and of the President of the World Bank;

13. Notes further that the funds in the Development Fund for Iraq shall be disbursed at the direction of the Authority, in consultation with the Iraqi interim administration, for the purposes set out in paragraph 14 below;

14. Underlines that the Development Fund for Iraq shall be used in a transparent manner to meet the humanitarian needs of the Iraqi people, for the economic reconstruction and repair of Iraq's infrastructure, for the continued disarmament of Iraq, and for the costs of Iraqi civilian administration, and for other purposes benefiting the people of Iraq;

15. Calls upon the international financial institutions to assist the people of Iraq in the reconstruction and development of their economy and to facilitate assistance by the broader donor community, and welcomes the readiness of creditors, including those of the Paris Club, to seek a solution to Iraq's sovereign debt problems;

16. Requests also that the Secretary-General, in coordination with the Authority, continue the exercise of his responsibilities under Security Council resolution 1472 (2003) of 28 March 2003 and 1476 (2003) of 24 April 2003, for a period of six months following the adoption of this resolution, and terminate within this time period, in the most cost effective manner, the ongoing operations of the "Oil-for-Food" Programme (the "Programme"), both at headquarters level and in the field, transferring responsibility for the administration of any remaining activity under the Programme to the Authority, including by taking the following necessary measures:

(a) to facilitate as soon as possible the shipment and authenticated delivery of priority civilian goods as identified by the Secretary-General and representatives designated by him, in coordination with the Authority and the Iraqi interim administration, under approved and funded contracts previously concluded by the previous Government of Iraq, for the humanitarian relief of the people of Iraq, including, as necessary, negotiating adjustments in the terms or conditions of these contracts and respective letters of credit as set forth in paragraph 4 (d) of resolution 1472 (2003);

(b) to review, in light of changed circumstances, in coordination with the Authority and the Iraqi interim administration, the relative utility of each approved and funded contract with a view to determining whether such contracts contain items required to meet the needs of the people of Iraq both now and during reconstruction, and to

postpone action on those contracts determined to be of questionable utility and the respective letters of credit until an internationally recognized, representative government of Iraq is in a position to make its own determination as to whether such contracts shall be fulfilled;

(c) to provide the Security Council within 21 days following the adoption of this resolution, for the Security Council's review and consideration, an estimated operating budget based on funds already set aside in the account established pursuant to paragraph 8 (d) of resolution 986 (1995) of 14 April 1995, identifying:

(i) all known and projected costs to the United Nations required to ensure the continued functioning of the activities associated with implementation of the present resolution, including operating and administrative expenses associated with the relevant United Nations agencies and programmes responsible for the implementation of the Programme both at Headquarters and in the field;

(ii) all known and projected costs associated with termination of the Programme;

(iii) all known and projected costs associated with restoring Government of Iraq funds that were provided by Member States to the Secretary-General as requested in paragraph 1 of resolution 778 (1992) of 2 October 1992; and

(iv) all known and projected costs associated with the Special Representative and the qualified representative of the Secretary-General identified to serve on the International Advisory and Monitoring Board, for the six month time period defined above, following which these costs shall be borne by the United Nations;

(d) to consolidate into a single fund the accounts established pursuant to paragraphs 8 (a) and 8 (b) of resolution 986 (1995);

(e) to fulfil all remaining obligations related to the termination of the Programme, including negotiating, in the most cost effective manner, any necessary settlement payments, which shall be made from the escrow accounts established pursuant to paragraphs 8 (a) and 8 (b) of resolution 986 (1995), with those parties that previously have entered into contractual obligations with the Secretary-General under the Programme, and to determine, in coordination with the Authority and the Iraqi interim administration, the future status of contracts undertaken by the United Nations and related United Nations agencies under the accounts established pursuant to paragraphs 8 (b) and 8 (d) of resolution 986 (1995);

(f) to provide the Security Council, 30 days prior to the termination of the Programme, with a comprehensive strategy developed in close coordination with the Authority and the Iraqi interim administration that would lead to the delivery of all relevant documentation and the transfer of all operational responsibility of the Programme to the Authority;

17. Requests further that the Secretary-General transfer as soon as possible to the Development Fund for Iraq 1 billion United States dollars from unencumbered funds in the accounts established pursuant to paragraphs 8 (a) and 8 (b) of resolution 986 (1995), restore Government of Iraq funds that were provided by Member States to the Secretary-General as requested in paragraph 1 of resolution 778 (1992), and decides that, after deducting all relevant United Nations expenses associated with the

shipment of authorized contracts and costs to the Programme outlined in paragraph 16 (c) above, including residual obligations, all surplus funds in the escrow accounts established pursuant to paragraphs 8 (a), 8 (b), 8 (d), and 8 (f) of resolution 986 (1995) shall be transferred at the earliest possible time to the Development Fund for Iraq;

18. Decides to terminate effective on the adoption of this resolution the functions related to the observation and monitoring activities undertaken by the Secretary-General under the Programme, including the monitoring of the export of petroleum and petroleum products from Iraq;

19. Decides to terminate the Committee established pursuant to paragraph 6 of resolution 661 (1990) at the conclusion of the six months period called for in paragraph 16 above and further decides that the Committee shall identify individuals and entities referred to in paragraph 23 below;

20. Decides that all export sales of petroleum, petroleum products, and natural gas from Iraq following the date of the adoption of this resolution shall be made consistent with prevailing international market best practices, to be audited by independent public accountants reporting to the International Advisory and Monitoring Board referred to in paragraph 12 above in order to ensure transparency, and decides further that, except as provided in paragraph 21 below, all proceeds from such sales shall be deposited into the Development Fund for Iraq, until such time as an internationally recognized, representative government of Iraq is properly constituted;

21. Decides further that 5 percent of the proceeds referred to in paragraph 20 above shall be deposited into the Compensation Fund established in accordance with resolution 687 (1991) of 3 April 1991 and subsequent relevant resolutions and that, unless an internationally recognized, representative government of Iraq and the Governing Council of the United Nations Compensation Commission, in the exercise of its authority over methods of ensuring that payments are made into the Compensation Fund, decide otherwise, this requirement shall be binding on a properly constituted, internationally recognized, representative government of Iraq and any successor thereto;

22. Noting the relevance of the establishment of an internationally recognized, representative government of Iraq and the desirability of prompt completion of the restructuring of Iraq's debt as referred to in paragraph 15 above, further decides that, until December 31, 2007, unless the Council decides otherwise, petroleum, petroleum products, and natural gas originating in Iraq shall be immune, until title passes to the initial purchaser, from legal proceedings against them and not be subject to any form of attachment, garnishment, or execution, and that all States shall take any steps that may be necessary under their respective domestic legal systems to assure this protection, and that proceeds and obligations arising from sales thereof, as well as the Development Fund for Iraq, shall enjoy privileges and

immunities equivalent to those enjoyed by the United Nations except that the above-mentioned privileges and immunities will not apply with respect to any legal proceeding in which recourse to such proceeds or obligations is necessary to satisfy liability for damages assessed in connection with an ecological accident, including an oil spill, that occurs after the date of adoption of this resolution;

23. Decides that all Member States in which there are:

(a) funds or other financial assets or economic resources of the previous Government of Iraq or its state bodies, corporations, or agencies, located outside Iraq as of the date of this resolution, or
(b) funds or other financial assets or economic resources that have been removed from Iraq, or acquired, by Saddam Hussein or other senior officials of the former Iraqi regime and their immediate family members, including entities owned or controlled, directly or indirectly, by them or by persons acting on their behalf or at their direction,
shall freeze without delay those funds or other financial assets or economic resources and, unless these funds or other financial assets or economic resources are themselves the subject of a prior judicial, administrative, or arbitral lien or judgement, immediately shall cause their transfer to the Development Fund for Iraq, it being understood that, unless otherwise addressed, claims made by private individuals or non-government entities on those transferred funds or other financial assets may be presented to the internationally recognized, representative government of Iraq; and decides further that all such funds or other financial assets or economic resources shall enjoy the same privileges, immunities, and protections as provided under paragraph 22;

24. Requests the Secretary-General to report to the Council at regular intervals on the work of the Special Representative with respect to the implementation of this resolution and on the work of the International Advisory and Monitoring Board and encourages the United Kingdom of Great Britain and Northern Ireland and the United States of America to inform the Council at regular intervals of their efforts under this resolution;

25. Decides to review the implementation of this resolution within twelve months of adoption and to consider further steps that might be necessary;

26. Calls upon Member States and international and regional organizations to contribute to the implementation of this resolution;

27. Decides to remain seized of this matter.

Bibliography

Primary Sources

Protocols Additional to the Geneva Conventions, Geneva, August 12, 1949.

Geneva Conventions, Geneva, August 12, 1949.

Geneva Convention Relative to the Treatment of Prisoners of War, Geneva, 1949.

Geneva Convention Relative to the Protection of Civilian Persons in Time of War, Geneva, 1949.

Regulations Respecting the Laws and Customs of War on Land, annexed to The Hague (IV) Convention, The Hague, 1899.

Federal Political Department Bern. 1949. *Final Record of the Diplomatic Conference of Geneva of 1949, vols. I-III*: ICRC.

Federal Political Department Bern. 1978. *Official Records of the Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law Applicable in Armed Conflicts Geneva 1974-1977, vols. I-XVII*: ICRC.

The Lieber Code – complete text, April 24, 1863.
letcher.tufts.edu/multi/texts/historical/LIEBERCODE.txt

Coalition Provisional Authority Regulation Number 1, ICRC, 16 May 2003, CPA/REG/16 May 2003/01, Section 1.

UK Ministry of Defense. 2004. *The Manual of the Law of Armed Conflict*: Oxford University Press.

UN Security Council Resolution 1483, May 22, 2003.

UN Security Council Resolution 1511, October 16, 2003.

UN Security Council Resolution 1546, June 8, 2004.

Secondary Sources

Books

Roberts, A. 1980. *Occupation, resistance and law, International Law on Military Occupations and on Resistance*: Oxford University Press.

Roberts, A. 1976. *The Technique of Civil Resistance*: Försvarets Forskningsanstalt.

Kalshoven, F. and Zegveld, L. 2001. *Constraints on the Waging of War, An Introduction to International Humanitarian Law*: International Committee of the Red Cross.

Kalshoven, F. 1971. *Belligerent Occupation*: Leiden.

Lauterpacht, H. 1951. *Annual Digest and Reports of Public International Law Cases, Year 1946*: Butterworth & Co. London.

Von Glahn, G. 1957. *The Occupation of Enemy Territory*: University of Minnesota Press.

Schwarzenberger, G. 1968. *International Law as Applied by International Courts and Tribunals*: Stevens.

Lauterpacht, H. 1952. *Oppenheim's International Law*: Longman.

Pictet, J. 1958. *The Geneva Conventions of 12 August 1949: Commentary, (IV) Geneva Convention relative to the Protection of Civilian Persons in Time of War*: International Committee of the Red Cross.

Suter, K. 1984. *An International Law of Guerrilla Warfare, the Global Politics of Law-Making*: Frances Pinter.

Gjelsvik, T. 1979. *Norwegian Resistance*: C. Hurst & Co.

Walzer, M. 2000. *Just and Unjust Wars, A Moral Argument with Historical Illustrations*: Basic Books.

Leites, N. & Wolf, C. 1970. *Rebellion and Authority, An Analytic Essay on Insurgent Conflict*: Markham Publishing Co.

Articles - periodicals

Sofaer, A.D. 1987. The US Decision Not to Ratify Protocol I to the Geneva Conventions on the Protection of War Victims. *American Journal of International Law*. Agora section: Vol: 81

Albrecht, A. R. 1978. War Reprisals in the War Crimes Trials and in the Geneva Conventions of 1949. *American Journal of International Law*: Vol: 47.

Davis, G.B. 1907. Doctor Francis Lieber's Instructions for the Government of Armies in the Field. *American Journal of International Law*.

Hammer, E. & Salvin, M. 1944. The Taking of Hostages in Theory and Practice, Vol. 38. *American Journal of International Law*.

Nurick, L. & Barrett, R.W. 1946. Legality of Guerrilla Forces Under the Laws of War. *American Journal of International Law*.

Trainin, I.P. 1946. Questions of Guerrilla Warfare in the Law of War. *American Journal of International Law*.

Baxter, R.R. 1950. The Duty of Obedience to the Belligerent Occupant. *British Yearbook of International Law*.

Draper, G.I.A.D. 1971. The status of combatants and the question of guerrilla warfare. *British Yearbook of International Law*.

Almond, G. A. 1947. The Resistance and the Political Parties of Western Europe. *Political Science Quarterly* .Vol: 62. No. 1.

Journals and Other Documents

Pillout, C. and Sandos. Y. 1987. Commentary on the Additional Protocols of 8 June 1977 to the Geneva conventions of 12 August 1949. *ICRC*.

Reiss, C. 1964. European Resistance Movements 1939-1945: Proceedings of the Second International Conference on the History of

the Resistance Movements Held at Milan 26-29 March 1961.
Pergamon Press.

Internet sources

United Nations War Crimes Commission, Law Reports of Trials of War Criminals.

a- *Case No. 47. The Hostages Trial. Trial of Wilhelm List and Others. United States Military Tribunal, Nuremberg.*

Accessed through:

www.ess.uwe.ac.uk/wcc/List1.htm

• *Notes on the case*

Accessed through:

www.ess.uwe.ac.uk/WCC/List4.htm#LAW%20RELATING%20TO%20HOSTAGES%20AND%20REPRISALS
www.ess.uwe.ac.uk/WCC/List5.htm

• *The Judgment of the Tribunal*

Accessed through:

www.ess.uwe.ac.uk/WCC/List3.htm#Irrelevance
www.ess.uwe.ac.uk/WCC/List4.htm#Findings

• *Presentation by the Chief Prosecutor for the French Republic*

Accessed through:

www.yale.edu/lawweb/avalon/imt/proc/01-24-46.htm#dubost

b- *Report of British War Crimes Section of Allied Force Headquarters on German Reprisals for Partisan Activities in Italy, Annex "A".*

Accessed through:

www.ess.uwe.ac.uk/genocide/partisans1.htm

Coalition Provisional Authority

Accessed through:

www.cpa-iraq.org

ICRC homepage:

Accessed through:

www.icrc.org

[www.icrc.org/Web/eng/siteeng0.nsf/htmlall/party_gc/\\$File/Conventions%20de%20GenSve%20et%20Protocoles%20additionnels%20EN Glogo](http://www.icrc.org/Web/eng/siteeng0.nsf/htmlall/party_gc/$File/Conventions%20de%20GenSve%20et%20Protocoles%20additionnels%20EN Glogo)

www.icrc.org/ihl.nsf/677558c021ecf2c141256739003e6370/0a9e03f0f2ee757cc1256402003fb6d2?

Marshall, Andrew. 2003. *Angry Iraqis Demand Right to Rule Themselves: Iraq Occupation Watch*.

Accessed through:

www.occupationwatch.org/article.php?id=33