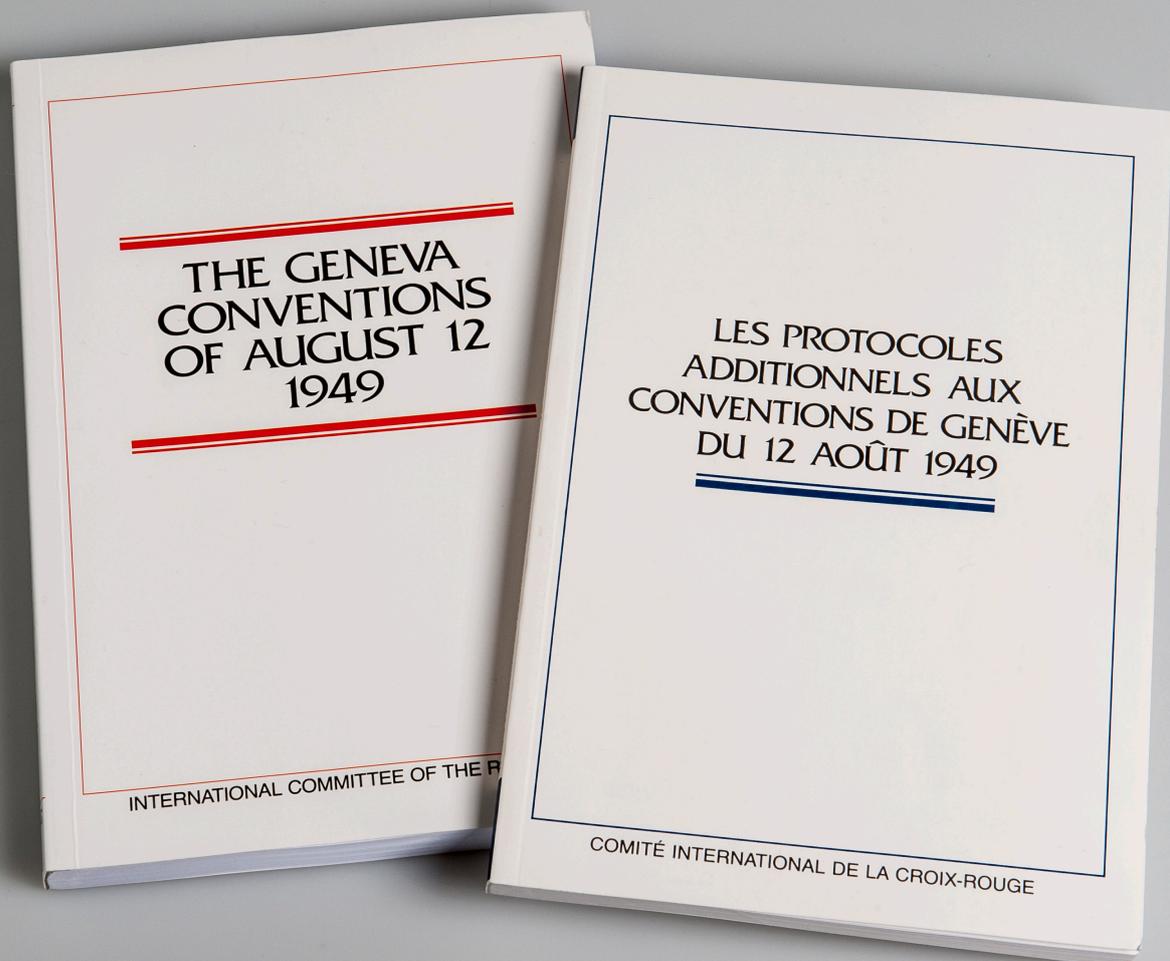


ADDITIONAL PROTOCOLS TO THE GENEVA CONVENTIONS OF 1949



International humanitarian law is the set of rules which, in times of war, protect those who are not, or no longer, taking an active part in hostilities, and limit the choice of methods and means of warfare. It applies both in situations of international and non-international armed conflict. The main instruments of international humanitarian law are the Geneva Conventions of 12 August 1949 for the protection of war victims. These treaties, which are universally accepted, protect the wounded, the sick, the shipwrecked, prisoners of war and civilians who find themselves in enemy hands. They also protect medical duties, medical personnel, medical units and facilities, and the means of medical transport. However, the Conventions leave gaps in important areas, such as the conduct of combatants and protection of civilians from the effects of hostilities. To remedy these shortcomings, two Additional Protocols were adopted in 1977 and, a third Additional Protocol was adopted in 2005. They supplement, but do not replace, the Geneva Conventions of 1949.

ADDITIONAL PROTOCOL I RELATING TO THE PROTECTION OF VICTIMS OF INTERNATIONAL ARMED CONFLICTS

What is the purpose of Additional Protocol I?

Additional Protocol I (AP I) applies to international armed conflicts, imposing constraints on the way in which military operations may be conducted. The obligations laid down in this instrument do not impose an intolerable burden on those in charge of military operations since they do not affect the right of each State to defend itself by any legitimate means.

This treaty came into being because new methods of combat had been developed and the rules applicable to the conduct of hostilities had become outdated. Civilians are now entitled to protection from the effects of war.

AP I provides a reminder that the right of the parties to a conflict to choose methods and means of warfare is not unlimited and that it is prohibited to employ weapons, projectiles, material or tactics of a nature to cause superfluous injury or unnecessary suffering (Art. 35).

AP I provides a reminder that the right of the parties to conflict to choose methods and means of warfare is not unlimited.

What new provisions does Additional Protocol I contain?

AP I extends the Geneva Conventions' definition of international armed conflict to include wars of national liberation (Art. 1) and specifies what constitutes a legitimate target of military attack. Specifically, AP I:

- **prohibits** indiscriminate attacks and attacks or reprisals directed against:
 - the civilian population and individual civilians (Arts. 48 and 51)
 - civilian objects (Arts. 48 and 52)
 - cultural objects and places of worship (Art. 53)
 - objects indispensable to the survival of the civilian population (Art. 54)
 - the natural environment (Art. 55) and
 - works and installations containing dangerous forces (Art. 56)
- **specifies** measures that must be taken in order to spare the civilian population, civilians and civilian objects (Arts. 57-58)
- **extends** the protection under the Geneva Conventions to all medical personnel, units and means of transport, both civilian and military (Arts. 8-31)
- **lays down** an obligation to search for missing persons (Art. 33)
- **strengthens** the provisions concerning relief for the civilian population (Arts. 68-71)
- **protects** the activities of civil defence organizations (Arts. 61-67)
- **specifies** measures that must be taken by the States to facilitate the implementation of humanitarian law (Arts. 80-91).

Most attacks or other acts carried out in violation of the prohibitions above are, subject to certain provisos, considered grave breaches of humanitarian law and classified as war crimes.

Article 90 of AP I provides for the establishment of an **International Fact-Finding Commission** to investigate alleged grave breaches or other serious violations of the Conventions and of AP I. All States Parties to AP I may accept the competence of this Commission.

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ADDITIONAL PROTOCOL II RELATING TO THE PROTECTION OF VICTIMS OF NON-INTERNATIONAL ARMED CONFLICTS

What is the purpose of Additional Protocol II?

Most conflicts since the Second World War have been non-international in nature. Yet the only provision in the Geneva Conventions of 1949 which is applicable in this type of conflict is Article 3 common to all four Conventions. Although it sets out basic principles for protecting people in war-time, Common Article 3 is not enough to solve the serious problems of humanitarian concern that arise in internal conflicts.

The purpose of Additional Protocol II (AP II) is hence to extend the essential rules of international humanitarian law to non-international armed conflicts. It does not restrict the rights of the States or the means available to them to maintain or restore law and order, nor can it be used to justify foreign intervention (Art. 3).

Compliance with the provisions of AP II does not, therefore, imply recognition of any particular status for armed rebels.

What new provisions does Additional Protocol II contain?

Unlike Common Article 3, which does not define the internal conflicts to which it applies, AP II describes its own field of application in considerable detail.

The situations covered by AP II are non-international armed conflicts that take place on the territory of a State between the armed forces of that State and an organized armed group that is under responsible command and control part of the national territory. These criteria need to apply, and the State in whose territory the conflict takes place needs to be a party to Additional Protocol II for it to apply.

The purpose of Additional Protocol II is to extend the essential rules of international humanitarian law to non-international armed conflicts.

As with Common Article 3, AP II does not apply to internal disturbances and tensions, such as riots, isolated and sporadic acts of violence (but makes this explicit (APII, article 1(2))).

Common Article 3 planted the seed of humanitarian considerations in law relating to non-international armed conflict. Additional Protocol II takes this modest beginning much further. Specifically, AP II:

- **strengthens** the fundamental guarantees enjoyed by all persons not, or no longer, taking part in the hostilities (Art. 4)
- **lays down** rights for persons deprived of their liberty and provides judicial guarantees for those prosecuted in connection with an armed conflict (Arts 5-6)
- **prohibits** attacks on:
 - the civilian population and individual civilians (Art. 13)
 - objects indispensable to the survival of the civilian population (Art. 14)
 - works and installations containing dangerous forces (Art. 15) and
 - cultural objects and places of worship (Art. 16)
- **regulates** the forced movement of civilians (Art. 17)
- **protects** the wounded, sick and shipwrecked (Arts 7-8)
- **protects** religious personnel and all medical personnel, units and means of transport (Arts 9-11)
- **limits** the use of the red cross and red crescent emblems to those persons and objects duly authorized to display it (Art. 12).

ADDITIONAL PROTOCOL III RELATING TO THE ADOPTION OF AN ADDITIONAL DISTINCTIVE EMBLEM

What new provisions does Additional Protocol III contain?

Additional Protocol III (AP III) establishes an additional emblem – composed of a red frame in the form of a square tilted on its edge on a white background – commonly known as the red crystal. This emblem provides greater flexibility, in particular to avoid any perceived political, religious or cultural connotations.

Under AP III, the red crystal offers the same protection as the red cross and the red crescent. The emblems are used in wartime to identify and protect the medical services of the armed forces as well as civilian hospitals, so that they can provide relief to victims without hindrance. The emblems are also used to identify people and objects associated with the International Red Cross and Red Crescent Movement (National Red Cross and Red Crescent Societies, the International Federation and the International Committee of the Red Cross (ICRC)), in times of peace and war.

The authorized users of the red crystal are the same persons and entities allowed to use the emblems of the Geneva Conventions of 1949. These are the medical services of State armed forces, authorized civil hospitals as well as the different components of the International Red Cross and Red Crescent Movement.

WHY ADHERE TO THE ADDITIONAL PROTOCOLS?

Additional Protocols I and II of 1977 are binding on the vast majority of States, but not all. Fewer States are party to Additional Protocol III of 2005.

It is essential that these instruments attain universal recognition, as this is a vital step toward fulfilment by all parties to conflict of the obligations laid down in the Additional Protocols.

Only when all States have pledged compliance with all the instruments that make up international humanitarian law will it be possible to ensure equal protection for all victims of armed conflict.

Through its Advisory Service on international humanitarian law, and its regional and national legal advisers, the ICRC stands ready to provide States interested in ratifying the Additional Protocols with any assistance and information. In particular, the Advisory Service can supply a Protocol Ratification Kit to facilitate the process.¹

¹ Available at <https://www.icrc.org/en/document/national-implementation-ihl-ratification-kits>.

MISSION

The International Committee of the Red Cross (ICRC) is an impartial, neutral and independent organization whose exclusively humanitarian mission is to protect the lives and dignity of victims of armed conflict and other situations of violence and to provide them with assistance. The ICRC also endeavours to prevent suffering by promoting and strengthening humanitarian law and universal humanitarian principles. Established in 1863, the ICRC is at the origin of the Geneva Conventions and the International Red Cross and Red Crescent Movement. It directs and coordinates the international activities conducted by the Movement in armed conflicts and other situations of violence.

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