

Technical Note
on the Protocols of 8 June 1977
Additional to the Geneva Conventions

The first Geneva Convention was signed in 1864. It dealt with the protection of the military sick and the wounded on the battlefield.

In 1899, thanks to The Hague Conventions, protection was extended to military wounded, sick and shipwrecked persons during maritime warfare.

In 1929, by a revised and more extensive version of the Conventions, prisoners of war in international armed conflicts were also placed under the protection of the law of Geneva.

In 1949, four Geneva Conventions, which are still in force today, were adopted, each of them dealing with the protection of a specific category of persons in time of international armed conflicts:

First Convention: sick and wounded members of armed forces in the field

Second Convention: sick, wounded and shipwrecked members of armed forces at sea

Third Convention: prisoners of war

Fourth Convention: civilians

Moreover, article 3 common to the four Conventions gave basic protection to all persons not taking an active part in the hostilities in case of armed conflict not of an international character.

By 30 September 1984, 160 States were parties to the Geneva Conventions.

From 1974 to 1977, after thorough preparation by the ICRC, the Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law applicable in Armed Conflicts, during

four sessions, each one lasting about two months, discussed two draft Protocols additional to the Geneva Conventions of 1949 and adopted them by consensus on 8 June 1977. The Final Act of the Conference was signed by 102 States and by three liberation movements.

By 30 September 1984, 46 States were parties to Protocol I and 39 to Protocol II.

Both Protocols make significant contributions to the adaptation of international humanitarian law to contemporary problems.

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Protocol I: Protection of victims of international armed conflict

Protocol I, which supplements all the four Geneva Conventions and applies in international armed conflicts, marks a substantial advance in two aspects of international humanitarian law: it improves protection for the civilian population and, taking into consideration the problems besetting States as a whole in the world of today, it gives a more universal dimension to international humanitarian law, both in its conception and in its formulation.

With respect to the *improved protection of civilians* the following points are of interest:

- *Civilian medical personnel*, if duly recognized and authorized by the party to the conflict to which they belong, are henceforth entitled to protection similar to that which previously had been afforded only to military medical personnel. Similarly, *persons engaged in medical duties* enjoy better protection, and both civilian and military *medical transports* (in particular medical aircraft) may be used more and to better effect. Furthermore, improved regulations concerning *identification by protective markings* and other means have been laid down in an annex to the Protocol.
- For the first time it has been clearly stipulated that families have the right to know the fate of relatives from whom they have been separated, and new provisions relating to *missing persons* and the remains of deceased persons have been introduced in accordance with this principle.
- The civilian population now enjoys *general protection against the effects of hostilities*. (The fourth Convention protects civilians

essentially when they are in the power of the enemy.) To that end, various rules on the conduct of hostilities, some of which are based on The Hague Conventions adopted at the turn of the century, have been incorporated in Protocol I. The limitation on the right of parties to a conflict to choose methods or means of combat, the prohibition of attacks against the civilian population or of indiscriminate attacks, the protection of civilian objects, of cultural objects and places of worship, of objects indispensable to the survival of the civilian population and of works and installations containing dangerous forces, and the banning of reprisals against civilians and such objects constitute the essential elements of this general protection against the effects of hostilities, and may be considered the most worthwhile progress achieved by the adoption of Protocol I.

- *Civil defence organizations*, whose activities can save innumerable lives, particularly when places are bombed by aircraft, must be respected and protected.
- The possibility of sending *relief supplies* to the civilian population has been extended.

When the 1949 Geneva Conventions were drawn up, many States had not acceded to independence. At the 1974-1977 Conference, when those States were able to express their views, thereby *promoting the universality of international humanitarian law*, they obtained tangible results, e. g.:

- The whole of international humanitarian law may now be applied in *wars of national liberation*;
- *Guerrilleros* who are captured are entitled, subject to less restrictive conditions than formerly, to be recognized as combatants and to be treated as prisoners of war;
- *Mercenaries* do not have the right to be treated as prisoners of war.

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Protocol II : protection of victims of non-international armed conflicts

Protocol II supplements article 3 common to the Geneva Conventions of 1949, by introducing more detailed rules. It applies to armed conflicts, not covered by Protocol I, « 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”.

The *most significant advances* introduced by Protocol II are the following:

- *Fundamental guarantees* are granted to all persons who do not take a direct part in hostilities, and special provisions have been introduced in respect of persons whose liberty has been restricted and with regard to penal prosecutions.
- Detailed rules have been introduced to *protect the wounded, sick and shipwrecked*, medical and religious personnel and medical units and transports, which may display the distinctive emblem of the red cross or red crescent, while provision is made for the general protection of medical duties.
- The *civilian population* is entitled to general protection against the effect of hostilities: the civilian population as such shall not be the object of attack; the starvation of civilians as a method of combat is prohibited; objects indispensable to the survival of the civilian population, works and installations containing dangerous forces and cultural objects and places of worship must be protected; forced movement of civilians is forbidden; and relief actions undertaken in aid of the civilian population must be facilitated.

In short, the two Protocols, while taking State security imperatives into due consideration, provide much better protection for victims of armed conflicts, particularly the civilian population, and adapt international humanitarian law to present-day circumstances.
