

Geneva Conventions and Protocols

Canada ratified the four Geneva Conventions on 14 May 1965. Canada has also ratified the three additional protocols to the Geneva Conventions – Protocol I and Protocol II on 20 November 1990 and Protocol III on 26 November 2007.

Adoption: The four Geneva Conventions are dated 12 August 1949; Protocol I and Protocol II are dated 8 June 1977 and Protocol III is dated 8 December 2005.

Entry into force: The four Geneva Conventions – 21 October 1950; Protocol I and Protocol II – 7 December 1978; Protocol III – 14 January 2007.

Number of signatories and ratifications/accessions: The four Geneva Conventions -196 accessions/ratifications, 0 signatories; Protocol I – 174 accessions/ratifications, 2 signatories; Protocol II – 168 accessions/ratifications, 3 signatories; Protocol III – 72 accessions/ratifications, 24 signatories.

Summary information

There are four Geneva Conventions:

- Convention (I) for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field;
- Convention (II) for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea;
- Convention (III) relative to the Treatment of Prisoners of War; and
- Convention (IV) relative to the Protection of Civilian Persons in Time of War.

They are dated 12 August 1949, the date on which the Final Act of the diplomatic conference, to which the conventions were annexed, was signed. Each came into force on 21 October 1950 after the first two ratifications were deposited.

The Geneva Conventions and their Additional Protocols form the core of international humanitarian law, the body of international law that regulates the conduct of armed conflict and seeks to limit its effects.

The Conventions contain the essential rules protecting persons who are not or no longer taking a direct part in hostilities when they find themselves in the hands of an adverse party - the wounded and sick, the shipwrecked, prisoners of war and civilians, including those civilians living under occupation.

There are also three protocols to the conventions. Protocol I (relating to the Protection of Victims of International Armed Conflicts) and Protocol II (relating to the Protection of Victims of Non-International Armed Conflicts) are dated 8 June 1977 and Protocol III (relating to the Adoption of an Additional Distinctive Emblem) is dated 8 December 2005. Protocol I and II came into force on 7 December 1978 and Protocol III on 14 January 2007. All three protocols came into force after the first two ratifications were deposited.

History

The history of the Geneva Conventions is interwoven with the history of the International Committee of the Red Cross (ICRC).

In June 1859, a Swiss national, Jean-Henri Dunant, travelling in Italy to meet the French emperor, Napoleon III, arrived in the small town of Solferino where earlier in the day there had been a major battle in the Austro-Sardinian War. The battle had resulted in thousands of casualties with many of the wounded left suffering on the battlefield without any medical attention. Dunant organized local civilians to care for the wounded and purchased materials and supplies to set up makeshift hospitals. On returning to Geneva, Dunant wrote a book *Un Souvenir de Solferino* which was published with his own money in 1862 and described his terrible experiences and proposed the idea of a neutral organization to provide care to wounded soldiers.

His book inspired the creation of the International Committee for Relief of the Wounded in Geneva in February 1863. Following an invitation from the Government of Switzerland to attend a diplomatic convention, twelve states signed a treaty on 22 August 1864 enshrining the obligation to spare and protect wounded soldiers and the people and equipment involved in their care. This was the first Geneva Convention, *Convention for the Amelioration of the Condition of the Wounded in Armies in the Field*. The International Committee was renamed the International Committee of the Red Cross in 1876.

The Hague Convention of 1899, a peace conference proposed by Russian Tsar Nicholas II, produced three conventions including a *Convention with respect to the Laws and Customs of War on Land* (Convention II). That convention contained the provisions of the Geneva Convention of 1864 as well as articles on the treatment of prisoners of war and prohibitions on killing enemy combatants who have surrendered, the use of poison, attacks on undefended populations and collective punishment.

The first Geneva Convention was replaced in 1906. The new version was more detailed and more precise in its terminology and contained new provisions with respect to the burial of the dead and the transmission of information and changed provisions that had proven to be impractical. Also in 1906, the principles of the first convention were extended to war at sea. Eventually this was recognized as the second Geneva Convention - *Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea*.

This was followed by the Hague Convention of 1907, again a peace conference which resulted in a series of international agreements, including a revised *Convention respecting the Laws and Customs of War on Land* (Convention IV) that focused on the treatment of prisoners of war. Subsequently, during the First World War, the International Red Cross lobbied combatants to agree to standard humanitarian rules in relation to prisoner treatment. After the war, a new Geneva Convention, *Convention relative to the Treatment of Prisoners of War*, was signed in 1929. It codified standard

humanitarian rules in relation to prisoner treatment and is known today as the third Geneva Convention.

In addition, also in 1929, the first Geneva Convention was replaced with a new version incorporating new rules with respect to the treatment of the wounded.

The widespread atrocities of the Second World War, on the battlefield, in prisoner of war camps and directed towards civilian populations, resulted in updates in 1949 to all the Geneva Conventions, particularly with respect to the treatment of prisoners of war, and also the creation of a new convention, the *Convention relative to the Protection of Civilian Persons in Time of War*. This latter convention is known as the fourth Geneva Convention.

Two additional protocols to the Geneva Conventions were added in 1977 to extend the protection of the conventions to victims of wars against racist regimes, wars of self-determination, wars against alien oppression, civil wars and guerrilla warfare. A third protocol was added in 2005. This protocol authorizes the use of a third distinctive emblem, the red crystal, in addition to the red cross and red crescent, as a universal symbol of assistance for armed conflict victims.

Key Provisions

The Geneva Conventions represent the world community's modern efforts to protect people in times of armed conflict. They contain the essential rules protecting persons who are not or no longer taking a direct part in hostilities when they find themselves in the hands of an adverse party - the wounded and sick, the shipwrecked, prisoners of war and civilians, including those civilians living under occupation.

There are four Geneva Conventions:

- Convention (I) for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field;
- Convention (II) for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea;
- Convention (III) relative to the Treatment of Prisoners of War; and
- Convention (IV) relative to the Protection of Civilian Persons in Time of War.

There are also three protocols to the conventions:

- Protocol I - relating to the Protection of Victims of International Armed Conflicts;
- Protocol II - relating to the Protection of Victims of Non-International Armed Conflicts; and
- Protocol III - relating to the Adoption of an Additional Distinctive Emblem (the red crystal).

Conventions

Provisions common to the four Geneva Conventions.

The conventions apply to all cases of declared war or of any other armed conflict between nations and to cases where a nation is partially or totally occupied by soldiers of another nation, even when there is no armed resistance to that occupation. Additionally, the conventions all extend protection to non-international conflicts.

Members of the armed forces who are the wounded or sick, the shipwrecked, prisoners of war and civilians must be respected and protected in all circumstances. They must be treated humanely and cared for. Strictly prohibited are murder, extermination, torture, biological experimentation, corporal punishment, mutilation, outrages upon personal dignity, the taking of hostages, collective punishments, execution without regular trial and all cruel and degrading treatment.

The conventions prohibit reprisals against the wounded, the sick and the shipwrecked, medical personnel and medical services, civilian defence personnel and services, prisoners of war, civilians, civilian and cultural objects and the natural environment as well as works and installations “containing dangerous forces.”

The conventions all recognize the right of the International Committee of the Red Cross or other impartial relief organizations to provide humanitarian assistance to the wounded and sick.

Countries ratifying the conventions must enact legislation to “provide effective penal sanctions for persons committing, or ordering to be committed, any of the grave breaches” of any of the conventions.

Additional Important Provisions of the first Geneva Convention - Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field

The first Geneva Convention (1949) built on the convention of 1864 and the revisions of 1906 and 1929. It applies to the wounded and sick who are members of the armed forces of a Party to a conflict as well as members of militias or volunteer corps forming part of such armed forces, persons who accompany the armed forces such as civil members of military aircraft crews, war correspondents, supply contractors and members of units responsible for the welfare of the armed forces and inhabitants of a non-occupied territory who spontaneously take up arms to resist invading forces.

Parties to a conflict, particularly following an engagement, must take all possible measures without delay to search for and collect the wounded and sick, to protect them and ensure their adequate care. They must also search for the dead and prevent the desecration of their bodies.

The parties must also collect as soon as possible basic information to assist in the identification of the wounded, sick or dead. In addition, whenever circumstances permit,

a suspension of fire is to be arranged to permit the removal, exchange and transport of the wounded left on the battlefield.

Medical units, civilian or military, including permanent and mobile hospitals as well as ambulances, hospital ships and medical aircraft, must not be attacked or prevented from operating. Medical equipment must not be seized or destroyed.

All medical and religious personnel caring for the sick and wounded, as well as units, supplies and vehicles, which are exclusively assigned to medical purposes by a party to a conflict, must be respected and protected. Such medical and religious personnel must wear the distinctive emblem of the red cross, the red crescent or the red crystal on a white background and carry an identity card. They may also carry arms for their own defence and that of the wounded and sick. Medical and religious personnel who fall into enemy hands must be allowed to continue to care for the sick and wounded. They may not be compelled to “perform acts contrary to the rules of medical ethics or to refrain from performing acts required by those rules.”

Additional Important Provisions of the second Geneva Convention - Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea

The second Geneva Convention (1949) extends the principles of the first convention to war at sea to protect wounded or sick combatants on board ship or shipwrecked. It also applies to hospital ships and medical personnel as well as civilians accompanying the armed forces. It built on the convention of 1906 and also on the 1907 Hague *Convention (X) for the Adaptation to Maritime Warfare of the Principles of the Geneva Convention of 1906*.

The definition of “shipwrecked” is clarified to include anyone who is adrift for any reason, including those forced to land at sea or to parachute from aircraft.

Appeals can be made to neutral vessels, including merchant ships and yachts, to take on board and care for wounded, sick or shipwrecked persons and to collect the dead. Vessels that agree to help cannot be captured as long as they remain neutral.

Hospital ships assisting, treating and transporting the wounded, sick and shipwrecked may under no circumstances be attacked or captured. At the same time, they may not be used for any military purposes.

Additional Important Provisions of the third Geneva Convention - Convention relative to the Treatment of Prisoners of War

The third Geneva Convention (1949) sets out standard humanitarian rules for the treatment of prisoners of war. It revised the convention of 1929 to take into account changes that had occurred in the conduct of warfare and to clarify the intent of certain regulations.

The Convention defines “prisoner of war” to include members of the armed forces, volunteer militia including resistance movements and civilians accompanying the armed forces – who have been captured by the adverse party.

Prisoners of war must be treated humanely, adequately housed, and receive sufficient food, water, clothing, and medical care to maintain good health. Women are to be treated with appropriate regard due to their sex, including the provision of separate dormitories.

Prisoners of war must not be held in combat areas where they are exposed to fire and must have shelter from air bombardment and other hazards of war to the same extent as the local civilian population. With the exception of officers, they may be obliged to work under working conditions equal to that of nationals of the detaining power. As the Convention notes, “They may not be compelled to do military work, nor work which is dangerous, unhealthy or degrading.”

If questioned, prisoners of war must give their name, age, rank and military serial number but cannot be compelled to provide other information. “Prisoners of war may in general be subject to the discipline and military code of the detaining power. For security reasons, that power may restrict their liberty, but may not imprison them except for breaches of the law. Before any sentence is passed, they must have the opportunity to state their case.”

Prisoners of war must be allowed to notify their next of kin and the Central Tracing Agency of the International Committee of the Red Cross of their capture. Those who have been seriously wounded or seriously ill must be directly repatriated, but may not afterwards take up active military duties. When the conflict has ended, prisoners of war must be released and repatriated without delay.

The International Committee of the Red Cross or other impartial humanitarian relief organizations authorized by parties to the conflict must be permitted to visit with prisoners privately, distribute relief supplies intended for religious, educational or recreational purposes and to assist the prisoners in organizing their leisure time within camps.

Additional Important Provisions of the fourth Geneva Convention - Convention relative to the Protection of Civilian Persons in Time of War

The fourth Geneva Convention (1949) sets out rules for the protection of civilians in time of war with a particular emphasis on the status and treatment of protected persons. It complements provisions in the regulations to the 1907 Hague Convention, the *Convention respecting the Laws and Customs of War on Land* (Convention IV).

Civilians are to be humanely treated at all times and protected against all acts of violence, threats and insults. They are entitled “to respect for their persons, their honour,

their family rights, their religious convictions and practices and their manners and customs.” Prohibited are murder, torture, corporal punishment, mutilation and medical or scientific experiments not necessitated by the medical treatment of a protected person and any other measures of brutality. Women are to be especially protected against any attack on their honour, rape and indecent assault and enforced prostitution. Also prohibited are collective penalties, measures of intimidation, pillage, terrorism and reprisals against civilians or their property and the taking of hostages.

If security allows, civilians must be permitted to lead normal lives. They are not to be interned except for imperative reasons of security. If internment is necessary, conditions should be at least comparable to those set forth for prisoners of war and the interned persons are to be released as soon as the reasons for the internment no longer exist. Civilians 18 and older may be compelled to work but “only to the same extent as nationals of the Party to the conflict in whose territory they are” and cannot be forced to do military-related work.

Children under fifteen, who are orphaned or are separated from their families as a result of the war must be cared for and the exercise of their religion and their education are to be facilitated. The Central Tracing Agency of the International Committee of the Red Cross is authorized to transmit family news and assist with family reunifications.

The parties to the conflict may establish hospital and safety zones “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.” Hospitals and vehicles, trains or ships transporting sick or injured civilians and their personnel are to be identified and respected and protected from attack.

The occupying power must ensure the civilian population has adequate supplies of food and medicine. Additionally, it must maintain “the medical and hospital establishments and services, public health and hygiene in the occupied territory, with particular reference to the adoption and application of the prophylactic and preventive measures necessary to combat the spread of contagious diseases and epidemics. Medical personnel of all categories shall be allowed to carry out their duties.” When the occupying power is unable to provide an adequate amount of food or medical supplies, it must facilitate the shipment of relief supplies by an impartial humanitarian organization such as the International Committee of the Red Cross.

Protocols

There are also three protocols to the conventions. Protocols I and II “were drawn up essentially as a response to changes in warfare, most notably the expansion of guerrilla warfare, and the increased suffering of civilians in armed conflict due in part to developments in weapons technology.” These protocols are intended to give greater protection to victims of both international and internal conflicts. Protocol III provides for the use of a third emblem as a universal symbol of assistance for armed conflict victims.

Protocol I (relating to the Protection of Victims of International Armed Conflicts)

The first Protocol (1977) brought several innovations to the Geneva Conventions.

A definition of *armed forces* is provided: “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 of its subordinates, even if that Party is represented by a government or an authority not recognized by an adverse Party.”

Armed conflicts in which peoples are fighting against colonial domination, alien occupation or racist regimes are to be considered international conflicts.

There are articles dealing with the conduct of hostilities to update rules developed under the Hague Conventions of 1899 and 1907 and by customary international law. Basic rules are included:

- In any armed conflict, the right of the Parties to the conflict to choose methods or means of warfare is not unlimited;
- It is prohibited to employ weapons, projectiles and material and methods of warfare of a nature to cause superfluous injury or unnecessary suffering; and
- 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.

The Protocol “outlaws indiscriminate attacks on civilian populations and destruction of food, water, and other materials needed for survival.” It prohibits attacks on dams, dykes and nuclear generating stations and on cultural objects and places of worship. Special protection is provided to personnel and installations of civil defense organizations and to demilitarized zones.

The Protocol forbids the recruitment of children under 15 into the armed forces. It also prohibits the use of the death penalty for an offense related to the armed conflict on any person who had not attained the age of eighteen years at the time the offence was committed.

Protection provided by the First and Second Conventions are extended to civilian medical personnel, equipment and supplies. The Protocol also states that it is “a war crime to use one of the protective emblems recognized by the Geneva Conventions to deceive the opposing forces or to use other forms of treachery.” It also forbids the use of civilians to try to shield military objectives from attacks.

Protocol II (relating to the Protection of Victims of Non-International Armed Conflicts)

As the ICRC notes, Protocol II (1977) extends “the essential rules of the law of armed conflicts to internal wars” such as civil wars. “It does not apply to such internal disturbances as riots, demonstrations, and isolated acts of violence.”

All persons who do not take a direct part in hostilities or have ceased participation “are entitled to respect for their person, honour and convictions and religious practices.” Echoing the main conventions, the following acts are prohibited: violence to the life, health and physical or mental well-being of persons, including murder, torture, mutilation, corporal punishment, collective punishments, taking of hostages, acts of terrorism, humiliating and degrading treatment, rape, enforced prostitution and any form of indecent assault, slavery and pillage as well as threats to commit any of these acts.

The starvation of civilians as a method of combat is prohibited. Accordingly, it is prohibited to attack, destroy or remove “objects indispensable to the survival of the civilian population, such as foodstuffs, agricultural areas for the production of foodstuffs, crops, livestock, drinking water installations and supplies and irrigation works.”

Children are to be provided with the care and aid they require including education. With the consent of their parents or guardians, whenever possible, they are to be removed from areas in which hostilities are taking place to a safer area within the country and to be accompanied by persons responsible for their safety and well-being.

Persons interned or detained during internal conflicts are assured of the same humane treatment as specified by the Geneva Conventions.

Protocol III (relating to the Adoption of an Additional Distinctive Emblem)

Protocol III (2005) provides for the use of the red crystal emblem, in addition to the red cross and red crescent emblems, as a universal symbol of assistance for the victims of armed conflict.

Canada’s Commitments and Responsibilities

Canada signed the four conventions in 1949. In 1964, the Parliament of Canada approved the four Geneva Conventions in the *Geneva Conventions Act*. Instruments of ratification for the four conventions were then deposited with the Swiss Government on May 14, 1965 and all four entered into force for Canada on November 14, 1965. Canada made no reservations, statements or declarations with respect to the four conventions.

Canada has also ratified the three additional protocols to the Geneva Conventions – Protocol I (relating to the Protection of Victims of International Armed Conflicts) and Protocol II (relating to the Protection of Victims of Non-International Armed Conflicts) on November 20, 1990 and Protocol III (relating to the Adoption of an Additional Distinctive Emblem) on November 26, 2007. Canada approved Protocols I and II in the *Geneva Conventions Act* of 1985. An additional schedule to that act with respect to Protocol III was approved in 2007.

Canada made reservations, statements of understanding and a declaration with respect to Protocol I.

In a reservation to Protocol 1, the Government stated it would not be bound by prohibitions:

- in Article 11 subparagraph 2(c) - the removal of tissue or organs for transplantation from persons interned, detained or otherwise deprived of liberty - with respect to Canadian nationals “so long as the removal of tissue or organs for transplantation is in accordance with Canadian laws and applicable to the population generally and the operation is carried out in accordance with normal Canadian medical practices, standards and ethics”; and
- in paragraph 2 of Article 39 - 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.

The Government provided Statements of Understanding with respect to:

- Article 38 and the use, by the medical services of the armed forces of a party to a conflict, of an emblem different from the emblems identified in the Geneva Conventions;
- the definition of the word “feasible” in several articles;
- Article 44 and the circumstances of the situation described in paragraph 4 with respect to combatant status and the meaning of the word “deployment” in paragraph 3;
- the standard for military decision making described in several articles in Section 1 of Part IV;
- military objectives in relation to the protection of civilian objects as described in Article 52;
- protection of cultural objects as described in Article 53;
- the meaning of the term “military advantage” in several articles;
- the use of civil defence personnel as described in Article 62; and
- the validity of a unilateral declaration of a national liberation movement to apply the Geneva Conventions and this Protocol to a conflict as described in Article 96.

The Government also made a declaration in support of the competence of the International Fact-Finding Commission, described in Article 90, to enquire into possible violations of the Geneva Conventions or this Protocol.

Canada made a statement of understanding with respect to Protocol II that the definitions of terms defined in Protocol I are applicable to this Protocol and that the understandings expressed with respect to Protocol I, where relevant, are applicable to this Protocol.

Canada made a declaration with respect to Protocol III. The declaration concerns Article 6(2) and the use of the third Protocol emblem by prior users of the emblem.

International Monitoring and Implementation

There are no implementation or enforcement mechanisms identified in the Geneva Conventions or its protocols beyond the requirement that countries that ratify the conventions must enact legislation to “provide effective penal sanctions for persons committing, or ordering to be committed, any of the grave breaches” of any of the conventions.

The International Committee of the Red Cross is the progenitor of the conventions and has remained their guardian but has no power of enforcement and “would not want it.”

According to a [2009 BBC article](#), “Unfortunately, signatures on paper have not led to respect for the conventions, . . . research conducted by the International Committee of the Red Cross (ICRC) . . . shows that civilians suffer most in armed conflict. . . . In World War I, the ratio of soldiers to civilians killed was 10 to one. In World War II it became 50-50, and today the figures are almost reversed - up to 10 civilians killed for every one soldier.”

In fact, enforcement of the conventions is a responsibility of the United Nations Security Council. But the Security Council rarely invokes its authority regarding the Geneva Conventions. Most issues regarding the Geneva Conventions are resolved by national law of the warring states.

In some circumstances, the International Criminal Court has jurisdiction to prosecute individuals accused of war crimes, crimes against humanity, or genocide, when national courts are unable or unwilling to do so. The Court has jurisdiction when crimes were committed by a State Party national, or in the territory of a State Party, or in a State that has accepted the jurisdiction of the Court; or the crimes were referred to the ICC Prosecutor by the United Nations Security Council (UNSC) pursuant to a resolution adopted under chapter VII of the UN charter.

Despite its lack of a mandate for enforcement of the conventions, the International Committee of the Red Cross constantly works with the parties to a conflict to comply with the conventions. In fact, Article 4 of the Statutes of the International Committee of the Red Cross states that one of the fundamental roles of the organization is “to undertake the tasks incumbent upon it under the Geneva Conventions, to work for the faithful application of international humanitarian law applicable in armed conflicts and to take cognizance of any complaints based on alleged breaches of that law.”

References

[ICRC - The Geneva Conventions of 1949: origins and current significance](#)

[Canadian Red Cross - Geneva Conventions & Other Treaties and Conventions](#)

[ICRC – 150 Years of Humanitarian Action](#)

[ICRC – Treaties and State Parties to the Treaties](#)

[Moyers & Company – A History of the Geneva Conventions](#)

[American Red Cross – A Summary of the Geneva Conventions and Additional Protocols](#)

[ICRC - Summary of the Geneva Conventions of 12 August 1949 and Their Additional Protocols](#)

[Canadian Heritage – Humanitarian Law](#)

[BBC – 12 August 2009 - Geneva Conventions' struggle for respect](#)

[HG Legal Resources – When does the Geneva Convention apply?](#)

[Social Science Research Network - The Role of the ICRC in the Enforcement of the Geneva Conventions](#)