

| Back | Home |

Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol 1)

Adopted on 8 June 1977 by the Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law applicable in Armed Conflicts

Entry into force: 7 December 1978, in accordance with Article 95

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 conflicts,

Have agreed on the following:

Part I GENERAL PROVISIONS

Article 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 the 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 in 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.

Article 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 Shipwrecked 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.

Article 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.

Article 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.

Article 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.

Article 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

Article 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 subparagraph (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 of 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 sub-paragraph (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.

Article 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.

Article 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.

Article 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.

Article 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.

Article 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 matériel 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.

Article 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.

Article 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 work required by those rules and provisions.

3. No person engaged in medical activities shall be compelled to give to anyone belonging either to an adverse Party, or to his own Party except as required by the law of the latter Party, any information concerning the wounded and sick who are, or who have been, under his care, if such information would, in his opinion, prove harmful to the patients concerned or to their families. Regulations for the compulsory notification of communicable diseases shall, however, be respected.

Article 17 Role of the civilian population and of aid societies

1. The civilian population shall respect the wounded, sick and shipwrecked, even if they belong to the adverse Party, and shall commit no act of violence against them. The civilian population and aid societies, such as national Red Cross (Red Crescent, Red Lion and Sun) Societies, shall be permitted, even on their own initiative, to collect and care for the wounded, sick and shipwrecked, even in invaded or occupied areas. No one shall be harmed, prosecuted, convicted or punished for such humanitarian acts.

2. The Parties to the conflict may appeal to the civilian population and the aid societies referred to in paragraph 1 to collect and care for the wounded, sick and shipwrecked, and to search for the dead and report their location; they shall grant both protection and the necessary facilities to those who respond to this appeal. If the adverse Party gains or regains control of the area, that Party also shall afford the same protection and facilities for so long as they are needed.

Article 18 Identification

1. Each Party to the conflict shall endeavour to ensure that medical and religious personnel and medical units and transports are identifiable.

2. Each Party to the conflict shall also endeavour to adopt and to implement methods and procedures which will make it possible to recognize medical units and transports which use the distinctive emblem and distinctive signals.

3. In occupied territory and in areas where fighting is taking place or is likely to take place, civilian medical personnel and civilian religious personnel should be recognizable by the distinctive emblem and an identity card certifying their status.

4. With the consent of the competent authority, medical units and transports shall be marked by the distinctive emblem. The ships and craft referred to in Article 22 of this Protocol shall be marked in accordance with the provisions of the Second Convention.

5. In addition to the distinctive emblem, a Party to the conflict may, as provided in Chapter III of Annex I to this Protocol, authorize the use of distinctive signals to identify medical units and transports. Exceptionally, in the special cases covered in that Chapter, medical transports may use distinctive signals without displaying the distinctive emblem.

6. The application of the provisions of paragraphs 1 to 5 of this Article is governed by Chapters I to III of Annex I to this Protocol. Signals designated in Chapter III of the Annex for the exclusive use of medical units and transports shall not, except as provided therein, be used for any purpose other than to identify the medical units and transports specified in that Chapter.

7. This Article does not authorize any wider use of the distinctive emblem in peacetime than is prescribed in Article 44 of the First Convention.

8. The provisions of the Conventions and of this Protocol relating to supervision of the use of the distinctive emblem and to the prevention and repression of any misuse thereof shall be applicable to distinctive signals .

Article 19 Neutral and other States not Parties to the conflict

Neutral and other States not Parties to the conflict shall apply the relevant provisions of this Protocol to persons protected by this Part who may be received or interned within their territory, and to any dead of the Parties to that conflict whom they may find.

Article 20 Prohibition of reprisals

Reprisals against the persons and objects protected by this Part are prohibited.

Section II Medical transportation

Article 21 Medical vehicles

Medical vehicles shall be respected and protected in the same way as mobile medical units under the Conventions and this Protocol.

Article 22 Hospitals 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.

Article 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.

Article 24 Protection of medical aircraft

Medical aircraft shall be respected and protected, subject to the provisions of this Part.

Article 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.

Article 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.

Article 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 the 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.

Article 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, subparagraph (f). 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

Article 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 26, 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 a 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.

Article 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, subparagraph (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, subparagraph (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.

Article 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

Article 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.

Article 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 the missions in areas controlled by the adverse Party. Personnel of such teams shall be respected and protected while exclusively carrying out these duties.

Article 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 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 country of 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 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 country, adopt the arrangements laid down in its own laws relating to cemeteries and graves.

4. A High Contracting Party in whose territory the gravesites 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 country of its intention to exhume the remains together with details of the intended place of reinterment.

Part III METHODS AND MEANS OF WARFARE COMBATANT AND PRISONER-OF-WAR STATUS

Section I Methods and means of warfare

Article 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.

Article 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.

Article 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.

Article 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.

Article 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.

Article 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.

Article 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.-Combatant and prisoner-of-war status

Article 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 of 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.

Article 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.

Article 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.

Article 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.

Article 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.

| Back | Home |