

# A Two Lesson Course: 70 years of the Geneva Conventions

## 1. First lesson (45 min)

*The origin of the four Geneva Conventions of 1949 ("GCs")*

Historical background:

- Battle of Solferino of 1859 witnessed by Henry Dunant
- Spontaneous relief organized by Dunant to wounded soldiers
- A key book: H. Dunant, *A Memory of Solferino*
  - Idea 1: creation of rules to protect the wounded in the field, as well as aid-workers
  - Idea 2: creation of relief societies formed in time of peace to prepare care for wounded soldiers (pp. 115-125)
  - Idea 3: creation of a protective emblem for health providers
  - "[...] some international principle, sanctioned by a Convention inviolate in character, which, once agreed upon and ratified, might constitute the basis for societies for the relief of the wounded [...]" (pp. 126-128): creation of a treaty comprising the three main ideas
- Creation of the International Committee of the Red Cross in 1863
- Geneva Convention for the Amelioration of the Condition of the Wounded in Armies in the Field of 1864 – why was First Geneva Convention adopted?
- 20th Century and the new GCs of 1949 - why were the GCs of 1949 adopted?
  - The Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armies in the Field of 1906
  - First World War and issues faced by prisoners and civilians
  - The Geneva Convention relative to the Treatment of Prisoners of War, of 1929
  - The Tokyo Draft International Convention on the Condition and Protection of Civilians of enemy nationality who are on territory belonging to or occupied by a belligerent of 1934
  - Second World War and issues faced by civilians and prisoners
  - The Four Geneva Conventions of 1949

## READINGS

### Suggested Readings:

H. Dunant, *A Memory of Solferino*, ICRC, 1862, 147 pp., available at: <https://shop.icrc.org/un-souvenir-de-solferino-2551.html> (consulted 12.07.2019).

"ICRC in WWI: overview of activities", ICRC, 2005, <https://www.icrc.org/en/doc/resources/documents/misc/57jqgg.htm> (consulted 12.07.2019).

"1919-1939: consolidation among crises", ICRC, 2010, <https://www.icrc.org/en/document/1919-1939-consolidation-among-crises> (consulted 12.07.2019).

"1939-1945: descent into hell", ICRC, 2010, <https://www.icrc.org/en/doc/who-we-are/history/second-world-war/overview-2-world-war.htm> (consulted 12.07.2019).

F. Bugnion, Birth of an idea: the founding of the International Committee of the Red Cross and of the International Red Cross and Red Crescent Movement: from Solferino to the original Geneva Convention (1859-1864), *International Review of the Red Cross*, Vol. 94, No. 888, Hiver 2012, <https://www.icrc.org/en/doc/resources/documents/article/review-2012/irrc-888-bugnion.htm> (consulted 16.07.2019).

"Drafting history of the 1949 Geneva Conventions", ICRC Archives, 2017, <https://blogs.icrc.org/cross-files/drafting-history-1949-geneva-conventions/> (consulted 16.07.2019).

P. Maurer, "Changing world, unchanged protection? 70 years of the Geneva Conventions", ICRC, 2019, <https://www.icrc.org/en/document/changing-world-unchanged-protection-70-years-geneva-conventions> (consulted 12.07.2019).

## 2. Second Lesson (45 min)

*Purpose, scope, key legal provisions and concepts of the four Geneva Conventions of 1949*

## Purpose:

- Protection of categories of persons **who do not** (civilians, medical personnel) **or no longer take part in the hostilities** (wounded, sick and shipwrecked troops, prisoners of war)
  - GC I: wounded and sick in the battlefield;
  - GC II: wounded, sick and shipwrecked;
  - GC III: prisoners of war;
  - GC IV: civilians.
  - Protection of the emblems
  - Humanitarian relief
  - Role of the ICRC

## Scope of application:

- Universal ratification
- Geneva Conventions as a source of International Humanitarian Law (IHL) – mention to the Additional Protocols
- IHL (*jus in bello*) ≠ Law of use of force (*jus ad bellum*)
- Armed conflicts (IAC / NIAC); ≠ “other situations of violence”

## Key legal provisions:

### International Armed Conflict:

- Classification: Common Article 2
- Main rules about each category of protected persons:
  - GC I & GC II – care, collection, respect, protection for/of the wounded, sick and shipwrecked, protection of medical personnel/units/transport, protective emblem; obligations on the missing and the dead (Art. 12 GC I; Art. 12 GC II).
  - GC III – combatant status, protection and treatment of POWs, ICRC visits, repatriation (Arts 4, 13, 14, 23, 25-38, 52, 70, 118, 123, 126 GC III).
  - GC IV – definition of civilians, definition of protected persons, protection of civilians in the power of the enemy, in occupied territories, protection and treatment of interned civilians (Arts 4, 16, 23, 24, 25, 27, 32, 34, 49, 50-63, 79, 106, 133, 140, 142, GC IV).

### Non-International Armed Conflict:

- Common Article 3 (“the mini-Convention”):
  - Classification (see also Art. 1, AP II)
  - “safety net” for humane treatment
  - persons not directly participating in hostilities
  - equality of belligerents
  - special agreements

## Key legal concepts:

- Duty to respect and ensure respect: “non-reciprocity” (Common Article 1)
  - Humane treatment – even those who fall into the hands of the enemy should be treated with respect for their dignity as human beings.
  - Universal jurisdiction (GC I-I, Arts. 49/50/129/146)
  - Protected persons (GC I, Art. 13, GC III and IV, Art.4)

READINGS

## **Legal Tool:**

“IHL - International Humanitarian Law”, Mobile App, ICRC, 2019: available from [Apple Store](#) and [Google Play Store](#).

## **Case studies:**

M. Sassòli, A. Bouvier, A. Quintin, “How does law protect in war?”, ICRC, 2014: “Iraq, Care for Wounded Enemies”, <https://casebook.icrc.org/case-study/iraq-care-wounded-enemies> (consulted 12.07.2019).

M. Sassòli, A. Bouvier, A. Quintin, “How does law protect in war?”, ICRC, 2014: “Israel, Navy Sinks Dinghy off Lebanon”, <https://casebook.icrc.org/case-study/israel-navy-sinks-dinghy-lebanon> (consulted 12.07.2019).

M. Sassòli, A. Bouvier, A. Quintin, "How does law protect in war?", ICRC, 2014: "Afghanistan/Canada, Agreements on the Transfer of Detainees", <https://casebook.icrc.org/case-study/afghanistancanada-agreements-transfer-detainees> (consulted 12.07.2019).

M. Sassòli, A. Bouvier, A. Quintin, "How does law protect in war?", ICRC, 2014: "Eritrea/Ethiopia, Award on Civilian Internees and Civilian Property", <https://casebook.icrc.org/case-study/eritreaethiopia-award-civilian-internees-and-civilian-property> (consulted 12.07.2019).

M. Sassòli, A. Bouvier, A. Quintin, "How does law protect in war?", ICRC, 2014: "Belgium, Law on Universal Jurisdiction", <https://casebook.icrc.org/case-study/belgium-law-universal-jurisdiction> (consulted 12.07.2019).

### **Suggested Readings:**

"The Geneva Conventions and their Additional Protocols", ICRC, 2019, <https://www.icrc.org/en/war-and-law/treaties-customary-law/geneva-conventions> (consulted 12.07.2019).

### **Further Readings:**

"Convention (I) for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field. Geneva, 12 August 1949, Commentary of 2016, Article 1 : Respect for the Convention", ICRC, <https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/Comment.xsp?action=openDocument&documentId=72239588AFA66200C1257F7D00367DBD> (consulted 12.07.2019).

"Convention (I) for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, Geneva. 12 August 1949, Commentary of 2016, Article 2 : Application of the Convention", ICRC, <https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/Comment.xsp?action=openDocument&documentId=BE2D518CF5DE54EAC1257F7D0036B518> (consulted 12.07.2019).

"Convention (I) for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field. Geneva, 12 August 1949, Commentary of 2016, Article 3 : Conflicts not of an international character", ICRC, <https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/Comment.xsp?action=openDocument&documentId=59F6CDFA490736C1C1257F7D004BA0EC> (consulted 12.07.2019).

"Convention (I) for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field. Geneva, 12 August 1949. Commentary of 2016, Article 49: Penal sanctions", ICRC, <https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/Comment.xsp?action=openDocument&documentId=3ED0B7D33BF425F3C1257F7D00589C84> (consulted 12.07.2019).