



## HOW DOES LAW PROTECT IN WAR?

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After 70 years, the Geneva Conventions (“GCs”) remain inspiring key sources of IHL, which have contributed to save countless lives since their adoption in 1949. The following examples, along with many more, help illustrate the pivotal role of the GCs for the protection of people affected by armed conflicts worldwide.

This highlight gives an overview of the GCs throughout their 70 years of existence. Through a non-exhaustive list of case studies and resources, it aims at illustrating the relevance and influence of those instruments to bring humanity in the midst of armed conflict, from 1949 up to nowadays. The case studies are ordered thematically, as well as according to each Geneva Convention.

Lecturers will also find a model **teaching outline for the preparation of a two-lesson course** <sup>[1]</sup> on these landmark treaties, as well as a **new IHL app** to support their teaching by providing offline access to the GCs and updated ICRC Commentaries, available from **Apple Store** <sup>[2]</sup> and **Google Play Store** <sup>[3]</sup>.

Lecturers, researchers and professionals are encouraged to use these tools to teach, train, discuss and research on the GCs and thus help enhance respect for IHL.

VERSION FRANCAISE (PDF) => CLIQUEZ SUR LES LIENS SUIVANTS:  
**CAS PRATIQUES** <sup>[4]</sup>

et **PLAN DE COURS** <sup>[5]</sup> (traduction de l'Université Laval, disponible également sur le site de l'Académie de Genève de droit international humanitaire et de droits humains <sup>[6]</sup>)

## A HISTORICAL CASE BEFORE 1949

Even during the darkest moments of World War II, even the Nazi regime, although committing massive and deliberate violations and atrocities, came, as evidenced by the case *United States Military Tribunal at Nuremberg, The Ministries Case* <sup>[7]</sup> to the conclusion that it is in its interest to respect some rules of the predecessor 1929 Geneva Convention. It was with the practice of the Second World War fresh in their memories that States adopted in 1949 the GCs.

## BY TOPIC

### Dissemination

- The obligation of States to **instruct, train and inform** their armed forces about the rules of the GCs is reflected in *Nigeria, Operational Code of Conduct* <sup>[8]</sup>.

### Implementation

- In the case *Ivory Coast, National Interministerial Commission* <sup>[9]</sup>, a special organ was created for the **national implementation of humanitarian law**, as well as to ensure the respect for and dissemination of the latter. Although the creation of **interministerial national commissions for implementation of humanitarian law** <sup>[10]</sup> is not mandatory *per se*, the work they usually perform, as described above, is mandated by the Geneva Conventions.

## Non-international armed conflict

- In the case of the *Colombia Peace Agreement* <sup>[11]</sup>, the parties to a **non-international armed conflict** (NIAC) agreed on minimum rules under a special agreement, as foreseen by **Common Article 3** to the Geneva Conventions.

## Detention

- Crucial questions were raised by *ad hoc* agreements and their compatibility with the GCs in e.g. *Afghanistan/Canada, Agreements on the Transfer of Detainees* <sup>[12]</sup>, namely regarding the fundamental obligations of parties when **detaining** people in an armed conflict.
- Also in *United States v. Noriega* <sup>[13]</sup> the status of **prisoners of war**, the possibility to prosecute them, detention regulations, and extradition rules were addressed by national courts.

## Role of the ICRC

- In the case study *ICRC, Appeals in the Near East* <sup>[14]</sup>, the mandate of the **ICRC as the “guardian of IHL”**, as determined by the Geneva Conventions, is well illustrated. In this regard, the ICRC can remind the various parties to a conflict to comply with their IHL obligations.
- Similarly, in *ICRC, Iran/Iraq Memoranda* <sup>[15]</sup> the ICRC appealed to the parties to the conflict to comply with their obligations towards prisoners of war and to all States Parties to the Geneva Conventions to act in conformity with their **obligation to ensure respect** for those Conventions, in conformity with **Common Article 1**.
- On another hand, the ICRC can also establish and recognize new hospital zones, as it happened in *Sri Lanka, Jaffna Hospital Zone* <sup>[16]</sup>.

## Universal jurisdiction and grave breaches

- *ICTY, Prosecutor v. Blaskic* <sup>[17]</sup> illustrates the importance of the GCs when international (and domestic) criminal courts **define grave breaches** of the GCs and **war crimes**

- In *Switzerland, The Niyonteze Case* <sup>[18]</sup>, a Swiss Court exercised **universal jurisdiction** over war crimes committed in violation of Article 3 common to the four Geneva Conventions in a non-international armed conflict in Rwanda.

## BY CONVENTION

### Geneva Convention I

- In *Burkina Faso, Law on the Use and Protection of the Red Cross and Red Crescent Emblems in Burkina Faso* <sup>[19]</sup>, the State issued a national law in line with the rules of the use and **protection of the red cross and red crescent emblem** as regulated in GC I.

### Geneva Convention II

- In *Israel, Navy Sinks Dinghy off Lebanon* <sup>[20]</sup> we can see how GC II on the protection of the **wounded and sick at the sea** are crucial during times of war.

### Geneva Convention III: Prisoners of War

- Another emblematic example is the *Eritrea/Ethiopia, Partial Award on POWs* <sup>[21]</sup>, whereby an Arbitral Commission constituted by the former belligerents and seated in The Hague with the Permanent Court of Arbitration serving as registry identified violations of the rules of GC III on the **protection of prisoners of war**.

### Geneva Convention IV: Protection of Civilians

- Furthermore, the *UN, Resolutions and Conference on Respect for the Fourth Convention* <sup>[22]</sup> case exemplifies how pertinent the obligation to respect and ensure respect for the rules on the **protection of civilians** is, in particular in occupied territories, discussed and encouraged in **UN documents** and legal instruments.
- Lastly, in *UN, Detention of Foreigners* <sup>[23]</sup>, the rules of GC IV on **belligerent occupation**

were discussed, namely concerning the protection of the occupied population.

### Teaching Outline on the Geneva Conventions

- A Two Lesson course: 70 years of the Geneva Conventions

[1]

### "A to Z" and "The Law" sections of the Online Casebook

The "A to Z" section provides information on several topics, among others, on the Geneva Conventions [24], Armed conflict [25], Detention [26], Equality of belligerents [27], Fundamental principles of IHL [28], Human treatment [29], International Committee of the Red Cross [30], Implementation [31], Protected persons [32], Respect and ensure respect [33], Reciprocity [34], Universal Jurisdiction [35], Grave breaches [36].

In "The Law" section you can find more information on the categories of persons protected by the Geneva Conventions such as the Wounded, sick and shipwrecked [37], Combatants and POWs [38] and Civilian population [39]. You can also get an overview of the role of the ICRC as the "guardian of the Geneva Conventions" [40] and of implementation mechanisms [41].

### To go further

- **Mobile Application:** "IHL" provides offline access to the Geneva Conventions and updated ICRC Commentaries, other IHL treaties, ICRC customary IHL Study in English, French, Arabic, Chinese, Russian, Spanish. Available from Apple Store [2] and Google Play Store [3].
- **IHL Database:** The Geneva Conventions of 1949 and their Commentaries , ICRC, 2019. [42]

- **E-Learning Modules:** Introduction to International Humanitarian Law (IHL), ICRC. <sup>[43]</sup>
- **Brochure:** “International Humanitarian Law: Answers to your Questions <sup>[44]</sup>”.
- **Handbook:** N. Melzer, *International Humanitarian Law: A Comprehensive Introduction* <sup>[45]</sup>, ICRC, Geneva, 2016.
- **Web Page:** “Geneva Conventions: Even wars have limits <sup>[46]</sup>”, ICRC, 2019.
- **Video:** “From Norms to Action: “Changing World, Unchanged Protection? 70 Years of the Geneva Conventions <sup>[47]</sup>”, ICRC, 2019.
- **Article:** K. Dörmann, J. Serralvo, “Common Article 1 to the Geneva Conventions and the obligation to prevent international humanitarian law violations <sup>[48]</sup>”, *International Review of the Red Cross*, No 895/896, 2015, pp. 707-736.

**Source URL:** <https://casebook.icrc.org/highlight/geneva-conventions-1949-70-year-path-protecting-humanity-war>

#### Links

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- [6] <https://www.geneva-academy.ch/news/detail/253-des-cas-tires-de-la-pratique-des-conflits-armes-mettent-en-lumiere-la-pertinence-des-conventions-de-geneve-depuis-70-ans>
- [7] <https://casebook.icrc.org/case-study/united-states-military-tribunal-nuremberg-ministries-case>
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- [20] <https://casebook.icrc.org/case-study/israel-navy-sinks-dinghy-lebanon>
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- [45] [https://shop.icrc.org/international-humanitarian-law-a-comprehensive-introduction-2891.html?\\_\\_store=default](https://shop.icrc.org/international-humanitarian-law-a-comprehensive-introduction-2891.html?__store=default)
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