

# **Protection of Persons and Objects**

A Module of

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## LECTURE OUTLINE

### **1. Victimhood v. involvement in the fighting**

### **2. General principles**

- 2.1. Martens clause
- 2.2. Prohibition against adverse distinction

### **3. Protection of persons under international humanitarian law**

- 3.1. Wounded, sick and shipwrecked
- 3.2. Prisoners of war
- 3.3. Civilians
- 3.4. Special cases
- 3.5. Fundamental guarantees for (nearly) everyone

### **4. Protection of objects under international humanitarian law**

- 4.1. Civilian objects generally
- 4.2. Cultural property
- 4.3. Objects indispensable to the survival of the civilian population
- 4.4. The natural environment
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- 4.6. Objects dedicated to medical services and civil defence

**DU CONTRAT SOCIAL, OU PRINCIPES DU DROIT POLITIQUE 1762**

**Jean-Jacque Rousseau**

War then is a relation, not between man and man, but between State and State, and individuals are enemies only accidentally, not as men, nor even as citizens, but as soldiers; not as members of their country, but as its defenders ... The object of the war being the destruction of the hostile State, the other side has a right to kill its defenders while they are bearing arms; but as soon as they lay them down and surrender they become once more merely men, whose life no one has any right to take.

MARTENS CLAUSE

Hague Convention II 1899	Hague Regulations 1907	Geneva Conventions I/II/III/IV 1949	Additional Protocol I 1977	Additional Protocol II 1977	Certain Conventional Weapons Convention 1980
<p style="text-align: center;"><b>Preamble</b></p> <p>...</p> <p>It has not, however, been possible to agree forthwith on provisions embracing all the circumstances which occur in practice;</p> <p>On the other hand, it could not be intended by the High Contracting Parties that the cases not provided for should, for want of a written provision, be left to the arbitrary judgment of the military commanders;</p> <p>Until a more complete code of the laws of war is issued, the High Contracting Parties think it right to declare that in cases not included in the Regulations adopted by them, populations and belligerents remain under the protection and empire of the principles of international law, as they result from the usages established between civilized nations, from the laws of humanity, and the requirements of the public conscience;</p> <p>...</p>	<p style="text-align: center;"><b>Preamble</b></p> <p>...</p> <p>It has not, however, been found possible at present to concert regulations covering all the circumstances which arise in practice;</p> <p>On the other hand, the High Contracting Parties clearly do not intend that unforeseen cases should, in the absence of a written understanding, be left to the arbitrary judgment of military commanders.</p> <p>Until a more complete code of the laws of war has been issued, the High Contracting Parties deem it expedient to declare that, in cases not included in the Regulations adopted by them, the inhabitants and the belligerents remain under the protection and the rule of the principles of the law of nations, as they result from the usages established among civilized nations, from the laws of humanity, and the dictates of the public conscience;</p> <p>...</p>	<p style="text-align: center;"><b>Article 63/62/142/158</b></p> <p>...</p> <p>The denunciation shall have effect only in respect of the denouncing Power. It shall in no way impair the obligations which the Parties to the conflict shall remain bound to fulfil by virtue of the principles of the law of nations, as they result from the usages established among civilized peoples, from the laws of humanity and the dictates of the public conscience.</p>	<p style="text-align: center;"><b>Article 1</b> <b>General principles and scope of application</b></p> <p>...</p> <p>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.</p>	<p style="text-align: center;"><b>Preamble</b></p> <p><i>The High Contracting Parties,</i></p> <p>...</p> <p><i>Recalling</i> that, in cases not covered by the law in force, the human person remains under the protection of the principles of humanity and the dictates of the public conscience ...</p>	<p style="text-align: center;"><b>Preamble</b></p> <p><i>The High Contracting Parties,</i></p> <p>...</p> <p>Confirming their determination that in cases not covered by this Convention and its annexed Protocols or by other international agreements, the civilian population and the 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 the public conscience ...</p>

**PROHIBITION AGAINST ADVERSE DISTINCTION**

Geneva Convention I 1949	Geneva Convention II 1949	Geneva Convention III 1949	Geneva Convention IV 1949	Additional Protocol I 1977	Additional Protocol II 1977
<b>Article 3</b>	<b>Article 3</b>	<b>Article 3</b>	<b>Article 3</b>	<b>Article 9</b> <b>Field of application</b>	<b>Article 2</b> <b>Personal field of application</b>
In the case of armed conflict not of an international character occurring in the territory of one of the High Contracting Parties, each Party to the conflict shall be bound to apply, as a minimum, the following provisions:  (1) Persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed <i>hors de combat</i> by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely, without any adverse distinction founded on race, colour, religion or faith, sex, birth or wealth, or any other similar criteria.  ...	In the case of armed conflict not of an international character occurring in the territory of one of the High Contracting Parties, each Party to the conflict shall be bound to apply, as a minimum, the following provisions:  (1) Persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed <i>hors de combat</i> by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely, without any adverse distinction founded on race, colour, religion or faith, sex, birth or wealth, or any other similar criteria.  ...	In the case of armed conflict not of an international character occurring in the territory of one of the High Contracting Parties, each Party to the conflict shall be bound to apply, as a minimum, the following provisions:  (1) Persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed <i>hors de combat</i> by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely, without any adverse distinction founded on race, colour, religion or faith, sex, birth or wealth, or any other similar criteria.  ...	In the case of armed conflict not of an international character occurring in the territory of one of the High Contracting Parties, each Party to the conflict shall be bound to apply, as a minimum, the following provisions:  (1) Persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed <i>hors de combat</i> by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely, without any adverse distinction founded on race, colour, religion or faith, sex, birth or wealth, or any other similar criteria.  ...	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.  ...  <b>Article 10</b> <b>Protection and care</b>  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.  ...  <b>Article 69</b> <b>Basic needs in occupied territories</b>	1. This Protocol shall be applied 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 (hereinafter referred to as "adverse distinction") to all persons affected by an armed conflict as defined in Article 1.  ...  <b>Article 4</b> <b>Fundamental guarantees</b>  1. All persons who do not take a direct part or who have ceased to take part in hostilities, whether or not their liberty has been restricted, are entitled to respect for their person, honour and convictions and religious practices. They shall in all circumstances be treated humanely, without any adverse distinction. It is prohibited to order that there shall be no survivors.  ...  <b>Article 7</b> <b>Protection and care</b>  1. All the wounded, sick and shipwrecked, whether or not
<b>Article 12</b>	<b>Article 12</b>	<b>Article 16</b>	<b>Article 27</b>		
Members of the armed forces and other persons mentioned in the following Article, who are wounded or sick, shall be respected and protected in all circumstances.  They shall be treated humanely and cared for by the Party to the conflict in whose power they may be, without any adverse distinction founded on sex, race, nationality, religion, political	Members of the armed forces and other persons mentioned in the following Article, who are at sea and who are wounded, sick or shipwrecked, shall be respected and protected in all circumstances, it being understood that the term "shipwreck" means shipwreck from any cause and includes forced landings at sea by or from aircraft.  Such persons shall be treated	Taking into consideration the provisions of the present Convention relating to rank and sex, and subject to any privileged treatment which may be accorded to them by reason of their state of health, age or professional qualifications, all prisoners of war shall be treated alike by the Detaining Power, without any adverse distinction based on race, nationality, religious belief or political opinions,	Protected persons are entitled, in all circumstances, to respect for their persons, their honour, their family rights, their religious convictions and practices, and their manners and customs. They shall at all times be humanely treated, and shall be protected especially against all acts of violence or threats thereof and against insults and public curiosity.  Women shall be especially		

<p>opinions, or any other similar criteria. Any attempts upon their lives, or violence to their persons, shall be strictly prohibited; in particular, they shall not be murdered or exterminated, subjected to torture or to biological experiments; they shall not wilfully be left without medical assistance and care, nor shall conditions exposing them to contagion or infection be created.</p> <p>Only urgent medical reasons will authorize priority in the order of treatment to be administered.</p> <p>Women shall be treated with all consideration due to their sex.</p> <p>...</p>	<p>humanely and cared for by the Party to the conflict in whose power they may be, without any adverse distinction founded on sex, race, nationality, religion, political opinions, or any other similar criteria. Any attempts upon their lives, or violence to their persons, shall be strictly prohibited; in particular, they shall not be murdered or exterminated, subjected to torture or to biological experiments; they shall not wilfully be left without medical assistance and care, nor shall conditions exposing them to contagion or infection be created.</p> <p>Only urgent medical reasons will authorize priority in the order of treatment to be administered.</p> <p>Women shall be treated with all consideration due to their sex.</p>	<p>or any other distinction founded on similar criteria.</p>	<p>protected against any attack on their honour, in particular against rape, enforced prostitution, or any form of indecent assault.</p> <p>Without prejudice to the provisions relating to their state of health, age and sex, all protected persons shall be treated with the same consideration by the Party to the conflict in whose power they are, without any adverse distinction based, in particular, on race, religion or political opinion.</p> <p>However, the Parties to the conflict may take such measures of control and security in regard to protected persons as may be necessary as a result of the war.</p>	<p>1. In addition to the duties specified in Article 55 of the Fourth Geneva Convention concerning food and medical supplies, the Occupying Power shall, to the fullest extent of the means available to it and without any adverse distinction, also ensure the provisions of clothing, bedding, means of shelter, other supplies essential to the survival of the civilian population of the occupied territory and objects necessary for religious worship.</p> <p>...</p> <p style="text-align: center;"><b>Article 70</b> <b>Relief actions</b></p> <p>1. If the civilian population of any territory under the control of a Party to the conflict, other than occupied territory, is not adequately provided with the supplies mentioned in Article 69, relief actions which are humanitarian and impartial in character and conducted without any adverse distinction shall be undertaken, subject to the agreement of the Parties concerned in such relief actions. Offers of such relief shall not be regarded as interference in the armed conflict or as unfriendly acts. In the distribution of relief consignments, priority shall be given to those persons, such as children, expectant mothers, maternity cases and nursing mothers, who, under the Fourth Geneva Convention or under this Protocol, are to be accorded privileged treatment or special protection.</p>	<p>they have taken part on the armed conflict, shall be respected and protected.</p> <p>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.</p> <p>...</p> <p style="text-align: center;"><b>Article 18</b> <b>Relief societies and relief actions</b></p> <p>...</p> <p>2. If the civilian population is suffering from undue hardship owing to a lack of supplies essential for its survival, such as foodstuffs and medical supplies, relief actions for the civilian population which are of an exclusively humanitarian and impartial nature and which are conducted without any adverse distinction shall be undertaken subject to the consent of the High Contracting Parties concerned.</p>
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**PERSONS PROTECTED UNDER THE GENEVA CONVENTIONS AND ADDITIONAL PROTOCOL I**

Sick and Wounded on Land	Sick, Wounded and Shipwrecked at Sea	Prisoners of War	Civilians
Geneva Convention I 1949	Geneva Convention II 1949	Geneva Convention III 1949	Geneva Convention IV 1949
Article 13	Article 13	Article 4	Article 4
<p>The present Convention shall apply to the wounded and sick belonging to the following categories:</p> <ol style="list-style-type: none"> <li>(1) Members of the armed forces of a Party to the conflict as well as members of militias or volunteer corps forming part of such armed forces.</li> <li>(2) Members of other militias and members of other volunteer corps, including those of organized resistance movements, belonging to a Party to the conflict and operating in or outside their own territory, even if this territory is occupied, provided that such militias or volunteer corps, including such organized resistance movements, fulfil the following conditions:               <ol style="list-style-type: none"> <li>(a) that of being commanded by a person responsible for his subordinates;</li> <li>(b) that of having a fixed distinctive sign recognizable at a distance;</li> <li>(c) that of carrying arms openly;</li> <li>(d) that of conducting their operations in accordance with the laws and customs of war.</li> </ol> </li> <li>(3) Members of regular armed forces who profess allegiance to a Government or an authority not recognized by the Detaining Power.</li> <li>(4) Persons who accompany the armed forces without actually being members thereof, such as civil members of military aircraft crews, war correspondents, supply contractors, members of labour units or of services responsible for the welfare of the armed forces, provided that they have received authorization from the armed forces which they accompany.</li> </ol>	<p>The present Convention shall apply to the wounded, sick and shipwrecked at sea belonging to the following categories:</p> <ol style="list-style-type: none"> <li>(1) Members of the armed forces of a Party to the conflict, as well as members of militias or volunteer corps forming part of such armed forces.</li> <li>(2) Members of other militias and members of other volunteer corps, including those of organized resistance movements, belonging to a Party to the conflict and operating in or outside their own territory, even if this territory is occupied, provided that such militias or volunteer corps, including such organized resistance movements, fulfil the following conditions:               <ol style="list-style-type: none"> <li>(a) that of being commanded by a person responsible for his subordinates;</li> <li>(b) that of having a fixed distinctive sign recognizable at a distance;</li> <li>(c) that of carrying arms openly;</li> <li>(d) that of conducting their operations in accordance with the laws and customs of war.</li> </ol> </li> <li>(3) Members of regular armed forces who profess allegiance to a Government or an authority not recognized by the Detaining Power.</li> <li>(4) Persons who accompany the armed forces without actually being members thereof, such as civilian members of military aircraft crews, war correspondents, supply contractors, members of labour units or of services responsible for the welfare of the armed forces, provided that they have received authorization from the armed forces which they accompany.</li> </ol>	<p>A. Prisoners of war, in the sense of the present Convention, are persons belonging to one of the following categories, who have fallen into the power of the enemy:</p> <ol style="list-style-type: none"> <li>(1) Members of the armed forces of a Party to the conflict as well as members of militias or volunteer corps forming part of such armed forces.</li> <li>(2) Members of other militias and members of other volunteer corps, including those of organized resistance movements, belonging to a Party to the conflict and operating in or outside their own territory, even if this territory is occupied, provided that such militias or volunteer corps, including such organized resistance movements, fulfil the following conditions:               <ol style="list-style-type: none"> <li>(a) that of being commanded by a person responsible for his subordinates;</li> <li>(b) that of having a fixed distinctive sign recognizable at a distance;</li> <li>(c) that of carrying arms openly;</li> <li>(d) that of conducting their operations in accordance with the laws and customs of war.</li> </ol> </li> <li>(3) Members of regular armed forces who profess allegiance to a government or an authority not recognized by the Detaining Power.</li> <li>(4) Persons who accompany the armed forces without actually being members thereof, such as civilian members of military aircraft crews, war correspondents, supply contractors, members of labour units or of services responsible for the welfare of the armed forces, provided that they have received authorization from the armed forces which they accompany, who shall provide them for that purpose with an identity card similar to the annexed model.</li> </ol>	<p>Persons protected by the Convention are those who, at a given moment and in any manner whatsoever, find themselves, in case of a conflict or occupation, in the hands of a Party to the conflict or Occupying Power of which they are not nationals.</p> <p>Nationals of a State which is not bound by the Convention are not protected by it. Nationals of a neutral State who find themselves in the territory of a belligerent State, and nationals of a co-belligerent State, shall not be regarded as protected persons while the State of which they are nationals has normal diplomatic representation in the State in whose hands they are.</p> <p>The provisions of Part II are, however, wider in application, as defined in Article 13.</p> <p>Persons protected by the Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field of August 12, 1949, or by the Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea of August 12, 1949, or by the Geneva Convention relative to the Treatment of Prisoners of War of August 12, 1949, shall not be considered as protected persons within the meaning of the present Convention.</p> <p align="center"><b>Article 5</b></p> <p>Where, in the territory of a Party to the conflict, the latter is satisfied that an individual protected person is definitely suspected of or engaged in activities hostile to the security of the State, such individual person shall not be entitled to claim such rights and privileges under the present Convention as would, if exercised in the favour of such individual person, be prejudicial to the security of such State.</p> <p>When in occupied territory an individual pro-</p>



<p>(5) Members of crews, including masters, pilots and apprentices of the merchant marine and the crews of civil aircraft of the Parties to the conflict, who do not benefit by more favourable treatment under any other provisions in international law.</p> <p>(6) Inhabitants of a non-occupied territory who, on the approach of the enemy, spontaneously take up arms to resist the invading forces, without having had time to form themselves into regular armed units, provided they carry arms openly and respect the laws and customs of war.</p>	<p>(5) Members of crews, including masters, pilots and apprentices of the merchant marine and the crews of civil aircraft of the Parties to the conflict, who do not benefit by more favourable treatment under any other provisions of international law.</p> <p>(6) Inhabitants of a non-occupied territory who, on the approach of the enemy, spontaneously take up arms to resist the invading forces, without having had time to form themselves into regular armed units, provided they carry arms openly and respect the laws and customs of war.</p>	<p>(5) Members of crews, including masters, pilots and apprentices, of the merchant marine and the crews of civil aircraft of the Parties to the conflict, who do not benefit by more favourable treatment under any other provisions of international law.</p> <p>(6) Inhabitants of a non-occupied territory, who on the approach of the enemy spontaneously take up arms to resist the invading forces, without having had time to form themselves into regular armed units, provided they carry arms openly and respect the laws and customs of war.</p> <p>B. The following shall likewise be treated as prisoners of war under the present Convention:</p> <p>(1) Persons belonging, or having belonged, to the armed forces of the occupied country, if the occupying Power considers it necessary by reason of such allegiance to intern them, even though it has originally liberated them while hostilities were going on outside the territory it occupies, in particular where such persons have made an unsuccessful attempt to rejoin the armed forces to which they belong and which are engaged in combat, or where they fail to comply with a summons made to them with a view to internment.</p> <p>(2) The persons belonging to one of the categories enumerated in the present Article, who have been received by neutral or non-belligerent Powers on their territory and whom these Powers are required to intern under international law, without prejudice to any more favourable treatment which these Powers may choose to give and with the exception of Articles 8, 10, 15, 30, fifth paragraph, 58-67, 92, 126 and, where diplomatic relations exist between the Parties to the conflict and the neutral or non-belligerent Power concerned, those Articles concerning the Protecting Power. Where such diplomatic relations exist, the Parties to a conflict on whom these persons depend shall be allowed to perform towards them the functions of a Protecting Power as provided in the present Convention, without prejudice to the functions which these Parties normally exercise in conformity with diplomatic and consular usage and treaties.</p> <p>C. This Article shall in no way affect the status of medical personnel and chaplains as provided for in Article 33 of the present Convention.</p>	<p>tected person is detained as a spy or saboteur, or as a person under definite suspicion of activity hostile to the security of the Occupying Power, such person shall, in those cases where absolute military security so requires, be regarded as having forfeited rights of communication under the present Convention.</p> <p>In each case, such persons shall nevertheless be treated with humanity, and in case of trial, shall not be deprived of the rights of fair and regular trial prescribed by the present Convention. They shall also be granted the full rights and privileges of a protected person under the present Convention at the earliest date consistent with the security of the State or Occupying Power, as the case may be.</p> <p style="text-align: center;">...</p> <p style="text-align: center;"><b>Article 44</b></p> <p>In applying the measures of control mentioned in the present Convention, the Detaining Power shall not treat as enemy aliens exclusively on the basis of their nationality <i>de jure</i> of an enemy State, refugees who do not, in fact, enjoy the protection of any government.</p>
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**Additional Protocol I  
1977**

<p style="text-align: center;"><b>Article 8 Terminology</b></p> <p>For the purposes of this Protocol:</p> <p>(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;</p> <p>...</p>	<p style="text-align: center;"><b>Article 8 Terminology</b></p> <p>For the purposes of this Protocol:</p> <p>...</p> <p>(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;</p> <p>...</p>	<p style="text-align: center;"><b>Article 43 Armed forces</b></p> <ol style="list-style-type: none"> <li>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 or 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.</li> <li>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.</li> <li>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.</li> </ol> <p style="text-align: center;"><b>Article 44 Combatants and prisoners of war</b></p> <ol style="list-style-type: none"> <li>1. Any combatant, as defined in Article 43, who falls into the power of an adverse Party shall be a prisoner of war.</li> <li>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.</li> <li>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</li> </ol>	<p style="text-align: center;"><b>Article 50 Definition of civilians and civilian population</b></p> <ol style="list-style-type: none"> <li>1. A civilian is any person who does not belong to one of the categories of persons referred to in Article 4 (A) (1), (2), (3) and (6) of the Third Convention and in Article 43 of this Protocol. In case of doubt whether a person is a civilian, that person shall be considered to be a civilian.</li> <li>2. The civilian population comprises all persons who are civilians.</li> <li>3. The presence within the civilian population of individuals who do not come within the definition of civilians does not deprive the population of its civilian character.</li> </ol> <p style="text-align: center;">...</p> <p style="text-align: center;"><b>Article 72 Field of application</b></p> <p>The provisions of this Section are additional to the rules concerning humanitarian protection of civilians and civilian objects in the power of a Party to the conflict contained in the Fourth Convention, particularly Parts I and III thereof, as well as to other applicable rules of international law relating to the protection of fundamental human rights during international armed conflict.</p> <p style="text-align: center;"><b>Article 73 Refugees and stateless persons</b></p> <p>Persons who, before the beginning of hostilities, were considered as stateless persons or refugees under the relevant international instruments accepted by the Parties concerned or under the national legislation of the State of refuge or State of residence shall be protected persons within the meaning of Parts I and III of the Fourth Geneva Convention, in all circumstances and without any adverse distinction.</p> <p style="text-align: center;">...</p>
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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

#### **Article 75** **Fundamental guarantees**

1. In so far as they are affected by a situation referred to in Article 1 of this Protocol, persons who are in the power of a Party to the conflict and who do not benefit from more favourable treatment under the Conventions or under this Protocol shall be treated humanely in all circumstances and shall enjoy, as a minimum, the protection provided by this Article without any adverse distinction based upon 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. Each Party shall respect the person, honour, convictions and religious practices of all such persons.

...

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 specifically 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.

**FUNDAMENTAL GUARANTEES FOR (NEARLY) EVERYONE**

Geneva Convention I/II/III/IV 1949	International Covenant on Civil and Political Rights 1966	Additional Protocol I 1977	Additional Protocol II 1977
<p align="center"><b>Article 3</b></p> <p>In the case of armed conflict not of an international character occurring in the territory of one of the High Contracting Parties, each Party to the conflict shall be bound to apply, as a minimum, the following provisions:</p> <p>(1) Persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed <i>hors de combat</i> by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely, without any adverse distinction founded on race, colour, religion or faith, sex, birth or wealth, or any other similar criteria.</p> <p>To this end, the following acts are and shall remain prohibited at any time and in any place whatsoever with respect to the above-mentioned persons:</p> <p>(a) violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture;</p> <p>(b) taking of hostages;</p> <p>(c) outrages upon personal dignity, in particular, humiliating and degrading treatment;</p> <p>(d) the passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court, affording all the judicial guarantees which are recognized as indispensable by civilized peoples.</p> <p>(2) The wounded, sick and shipwrecked shall be collected and cared for.</p> <p>An impartial humanitarian body, such as the International Committee of the Red Cross, may offer its services to the Parties to the conflict.</p> <p>The Parties to the conflict should further endeavour to bring into force, by means of special agreements, all or part of the other provisions of the</p>	<p align="center"><b>Article 4</b></p> <p>1. In time of public emergency which threatens the life of the nation and the existence of which is officially proclaimed, the State Parties to the present Covenant may take measures derogating from their obligations under the present Covenant to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with their other obligations under international law and do not involve discrimination solely on the ground of race, colour, sex, language, religion or social origin.</p> <p>2. No derogation from Articles 6, 7, 8 (paragraphs 1 and 2), 11, 15, 16 and 18 may be made under this provision.</p> <p>...</p> <p align="center"><b>Article 6</b></p> <p>1. Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.</p> <p>...</p> <p align="center"><b>Article 7</b></p> <p>No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation.</p> <p align="center"><b>Article 8</b></p> <p>1. No one shall be held in slavery; slavery and the slave-trade in all their forms shall be prohibited.</p> <p>2. No one shall be held in servitude.</p> <p>3. (a) No one shall be required to perform forced or compulsory labour;</p>	<p align="center"><b>Article 75 Fundamental guarantees</b></p> <p>1. In so far as they are affected by a situation referred to in Article 1 of this Protocol, persons who are in the power of a Party to the conflict and who do not benefit from more favourable treatment under the Conventions or under this Protocol shall be treated humanely in all circumstances and shall enjoy, as a minimum, the protection provided by this Article without any adverse distinction based upon 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. Each Party shall respect the person, honour, convictions and religious practices of all such persons.</p> <p>2. The following acts are and shall remain prohibited at any time and in any place whatsoever, whether committed by civilian or military agents:</p> <p>(a) violence to the life, health, or physical or mental well-being of persons, in particular:</p> <p>(i) murder;</p> <p>(ii) torture of all kinds, whether physical or mental;</p> <p>(iii) corporal punishment; and</p> <p>(iv) mutilation;</p> <p>(b) outrages upon personal dignity, in particular humiliating and degrading treatment, enforced prostitution and any form of indecent assault;</p> <p>(c) the taking of hostages;</p> <p>(d) collective punishments; and</p> <p>(e) threats to commit any of the foregoing acts.</p> <p>3. Any persons arrested, detained or interned for reasons related to the armed conflict shall be informed promptly, in a language he understands, of the reasons why these measures have been taken. Except in cases of arrest or detention for penal offences, such persons shall be released with the minimum delay possible and in any</p>	<p align="center"><b>Article 4 Fundamental guarantees</b></p> <p>1. All persons who do not take a direct part or who have ceased to take part in hostilities, whether or not their liberty has been restricted, are entitled to respect for their person, honour and convictions and religious practices. They shall in all circumstances be treated humanely, without any adverse distinction. It is prohibited to order that there shall be no survivors.</p> <p>2. Without prejudice to the generality of the foregoing, the following acts against the persons referred to in paragraph 1 are and shall remain prohibited at any time and in any place whatsoever:</p> <p>(a) violence to the life, health and physical or mental well-being of persons, in particular murder as well as cruel treatment such as torture, mutilation or any form of corporal punishment;</p> <p>(b) collective punishments;</p> <p>(c) taking of hostages;</p> <p>(d) acts of terrorism;</p> <p>(e) outrages upon personal dignity, in particular humiliating and degrading treatment, rape, enforced prostitution and any form of indecent assault;</p> <p>(f) slavery and the slave trade in all their forms;</p> <p>(g) pillage; and</p> <p>(e) threats to commit any of the foregoing acts.</p> <p>3. Children shall be provided with the care and aid they require, and in particular:</p> <p>(a) they shall receive an education, including religious and moral education, in keeping with the wishes of their parents, or in the absence of parents, of those responsible for their care;</p> <p>(b) all appropriate steps shall be taken to facilitate the reunion of families temporarily separated;</p> <p>(c) children who have not attained the age of</p>

<p>present Convention.</p> <p>The application of the preceding provisions shall not affect the legal status of the Parties to the conflict.</p>	<p>(b) Paragraph 3 (a) shall not be held to preclude, in countries where imprisonment with hard labour may be imposed as a punishment for a crime, the performance of hard labour in pursuance of a sentence to such punishment by a competent court;</p> <p>(c) For the purpose of this paragraph the term 'forced or compulsory labour' shall not include:</p> <p>(i) Any work or service, not referred to in sub-paragraph (b), normally required of a person who is under detention in consequence of a lawful order of a court, or of a person during conditional release from such detention;</p> <p>(ii) Any service of a military character and, in countries where conscientious objection is recognized, any national service required by law of conscientious objectors;</p> <p>(iii) Any services exacted in cases of emergency or calamity threatening the life or well-being of the community;</p> <p>(iv) Any work or service which forms part of normal civil obligations.</p> <p style="text-align: center;"><b>Article 9</b></p> <p>1. Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedures as are established by law.</p> <p>2. Anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him.</p> <p>3. Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release. It shall not be the general rule that persons awaiting trial shall be detained in custody, but release may be subject to guarantees to appear for trial, at any other stage of the judicial proceedings, and, should occasion arise, for execution of the judgment.</p>	<p>event as soon as the circumstances justifying the arrest, detention or internment have ceased to exist.</p> <p>4. No sentence may be passed and no penalty may be executed on a person found guilty of a penal offence related to the armed conflict except pursuant to a conviction pronounced by an impartial and regularly constituted court respecting the generally recognized principles of regular judicial procedure, which include the following:</p> <p>(a) the procedure shall provide for an accused to be informed without delay of the particulars of the offence alleged against him and shall afford the accused before and during his trial all necessary rights and means of defence;</p> <p>(b) no one shall be convicted of an offence except on the basis of individual penal responsibility;</p> <p>(c) no one shall be accused or convicted of a criminal offence on account of any act or omission which did not constitute a criminal offence under the national or international law to which he was subject at the time when it was committed; nor shall a heavier penalty be imposed than that which was applicable at the time when the criminal offence was committed; if, after the commission of the offence, provision is made by law for the imposition of a lighter penalty, the offender shall benefit thereby;</p> <p>(d) anyone charged with an offence is presumed innocent until proved guilty according to law;</p> <p>(e) anyone charged with an offence shall have the right to be tried in his presence;</p> <p>(f) no one shall be compelled to testify against himself or to confess guilt;</p> <p>(g) anyone charged with an offence shall have the right to examine, or have examined, the witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;</p> <p>(h) no one shall be prosecuted or punished by the same Party for an offence in respect of which a final judgement acquitting or convicting that person has been previously pronounced under the same law and judicial procedure;</p> <p>(i) anyone prosecuted for an offence shall have</p>	<p>fifteen years shall neither be recruited in the armed forces or groups nor allowed to take part in hostilities;</p> <p>(d) the special protection provided by this Article to children who have not attained the age of fifteen years shall remain applicable to them if they take a direct part in hostilities despite the provisions of sub-paragraph (c) and are captured;</p> <p>(e) measures shall be taken, if necessary, and whenever possible with the consent of their parents or persons who by law or custom are primarily responsible for their care, to remove children temporarily from the area in which hostilities are taking place to a safer area within the country and ensure that they are accompanied by persons responsible for the safety and well-being.</p>
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	<p>4. Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful.</p> <p>5. Anyone who has been the victim of unlawful arrest or detention shall have an enforceable right to compensation.</p> <p style="text-align: center;"><b>Article 10</b></p> <p>1. All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.</p> <p>...</p> <p style="text-align: center;"><b>Article 14</b></p> <p>1. All persons shall be equal before the courts and tribunals. In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law. The Press and the public may be excluded from all or part of a trial for reasons morals, public order (<i>ordre public</i>) or national security in a democratic society, or when the interest of the private lives of the parties so requires, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice; but any judgement rendered in a criminal case or in a suit at law shall be made public except where the interest of juvenile persons otherwise requires or the proceedings concern matrimonial disputes or the guardianship of children.</p> <p>2. Everyone charged with a criminal offence shall have the right to be presumed innocent until proved guilty according to law.</p> <p>3. In the determination of any criminal charge against him, everyone shall be entitled to the following minimum guarantees, in full equality:</p> <p>4. In case of juvenile persons, the procedure shall be such as will take account of their age and the</p>	<p>the right to have the judgement pronounced publicly; and</p> <p>(j) a convicted person shall be advised on conviction of his judicial and other remedies and of the time-limits within which they may be exercised.</p> <p>5. Women whose liberty has been restricted for reasons related to the armed conflict shall be held in quarters separated from men's quarters. They shall be under the immediate supervision of women. Nevertheless, in cases where families are detained or interned, they shall, whenever possible, be held in the same place and accommodated as family units.</p> <p>6. Persons who are arrested, detained or interned for reasons related to the armed conflict shall enjoy the protection provided by this Article until their final release, repatriation or re-establishment, even after the end of the armed conflict.</p> <p>7. In order to avoid any doubt concerning the prosecution and trial of persons accused of war crimes or crimes against humanity, the following principles shall apply:</p> <p>(a) persons who are accused of such crimes should be submitted for the purpose of prosecution and trial in accordance with the applicable rules of international law; and</p> <p>(b) any such persons who do not benefit from more favourable treatment under the Conventions or this Protocol shall be accorded the treatment provided by this Article, whether or not the crime of which they are accused constitute grave breaches of the Conventions or of this Protocol.</p> <p>8. No provision of this Article may be construed as limiting or infringing any other more favourable provision granting greater protection, under any applicable rules of international law, to persons covered by paragraph 1.</p>	
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	<p>desirability of promoting their rehabilitation.</p> <p>5. Everyone convicted of a crime shall have the right to his conviction and sentence being reviewed by a higher tribunal according to law.</p> <p>6. When a person has by a final decision been convicted of a criminal offence and when subsequently his conviction has been reversed or he has been pardoned on the ground that new or newly discovered fact shows conclusively that there has been a miscarriage of justice, the person who has suffered punishment as a result of such conviction shall be compensated according to law, unless it is proved that the non-disclosure of the unknown fact in time is wholly or partly attributable to him.</p> <p>7. No one shall be liable to be tried or punished again for an offence for which he has already been finally convicted or acquitted in accordance with the law and penal procedure of each country.</p> <p style="text-align: center;"><b>Article 15</b></p> <p>1. No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time when the criminal offence was committed. If, subsequent to the commission of the offence, provision is made by law for the imposition of a lighter penalty, the offender shall benefit thereby.</p> <p>2. Nothing in this article shall prejudice the trial and punishment of any person for any act or omission which, at the time when it was committed, was criminal according to the general principles of law recognized by the community of nations.</p> <p style="text-align: center;">...</p> <p style="text-align: center;"><b>Article 26</b></p> <p>All persons are equal before the law and are entitled without any discrimination to the equal protection of</p>		
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	the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.		
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**1954 CONVENTION FOR THE PROTECTION OF CULTURAL PROPERTY IN THE EVENT OF ARMED CONFLICT**

(excerpts)

CHAPTER I: GENERAL PROVISIONS REGARDING PROTECTION

Definition of Cultural Property

Article 1

For the purposes of the present Convention, the term "cultural property" shall cover, irrespective of origin or ownership:

- (a) movable or immovable property of great importance to the cultural heritage of every people, such as monuments of architecture, art or history, whether religious or secular; archaeological sites; groups of buildings which, as a whole, are of historical or artistic interest; works of art; manuscripts, books and other objects of artistic, historical or archaeological interest; as well as scientific collections and important collections of books or archives or of reproductions of the property defined above;
- (b) buildings whose main and effective purpose is to preserve or exhibit the movable cultural property defined in sub-paragraph (a) such as museums, large libraries and depositories of archives, and refuges intended to shelter, in the event of armed conflict, the movable cultural property defined in subparagraph (a);
- (c) centres containing a large amount of cultural property as defined in sub-paragraphs (a) and (b), to be known as "centres containing monuments".

Protection of Cultural Property

Article 2

For the purposes of the present Convention, the protection of cultural property shall comprise the safeguarding of and respect for such property.

Safeguarding of Cultural Property

Article 3

The High Contracting Parties undertake to prepare in time of peace for the safeguarding

of cultural property situated within their own territory against the foreseeable effects of an armed conflict, by taking such measures as they consider appropriate.

Respect for Cultural Property

Article 4

1. The High Contracting Parties undertake to respect cultural property situated within their own territory as well as within the territory of other High Contracting Parties by refraining from any use of the property and its immediate surroundings or of the appliances in use for its protection for purposes which are likely to expose it to destruction or damage in the event of armed conflict; and by refraining from any act of hostility directed against such property.
2. The obligations mentioned in paragraph 1 of the present Article may be waived only in cases where military necessity imperatively requires such a waiver.
3. The High Contracting Parties further undertake to prohibit, prevent and, if necessary, put a stop to any form of theft, pillage or misappropriation of, and any acts of vandalism directed against, cultural property. They shall, refrain from requisitioning movable cultural property situated in the territory of another High Contracting Party.
4. They shall refrain from any act directed by way of reprisals against cultural property.
5. No High Contracting Party may evade the obligations incumbent upon it under the present Article, in respect of another High Contracting Party, by reason of the fact that the latter has not applied the measures of safeguard referred to in Article 3.

Occupation

Article 5

1. Any High Contracting Party in occupation of the whole or part of the territory of another High Contracting Party shall as far as possible support the competent national authorities of the occupied country in safeguarding and preserving its cultural property.

2. Should it prove necessary to take measures to preserve cultural property situated in occupied territory and damaged by military operations, and should the competent national authorities be unable to take such measures, the Occupying Power shall, as far as possible, and in close co-operation with such authorities, take the most necessary measures of preservation.
3. Any High Contracting Party whose government is considered their legitimate government by members of a resistance movement, shall, if possible, draw their attention to the obligation to comply with those provisions of the Conventions dealing with respect for cultural property.

#### Distinctive Marking of Cultural Property

##### Article 6

In accordance with the provisions of Article 16, cultural property may bear a distinctive emblem so as to facilitate its recognition.

#### Military Measures

##### Article 7

1. The High Contracting Parties undertake to introduce in time of peace into their military regulations or instructions such provisions as may ensure observance of the present Convention, and to foster in the members of their armed forces a spirit of respect for the culture and cultural property of all peoples.
2. The High Contracting Parties undertake to plan or establish in peacetime, within their armed forces, services or specialist personnel whose purpose will be to secure respect for cultural property and to co-operate with the civilian authorities responsible for safeguarding it.

### CHAPTER II: SPECIAL PROTECTION

#### Granting of Special Protection

##### Article 8

1. There may be placed under special protection a limited number of refuges intended to shelter movable cultural property in the event of armed conflict, of

centres containing monuments and other immovable cultural property of very great importance, provided that they:

- (a) are situated at an adequate distance from any large industrial centre or from any important military objective constituting a vulnerable point, such as, for example, an aerodrome, broadcasting station, establishment engaged upon work of national defence, a port or railway station of relative importance or a main line of communication;
  - (b) are not used for military purposes.
2. A refuge for movable cultural property may also be placed under special protection, whatever its location, if it is so constructed that, in all probability, it will not be damaged by bombs.
  3. A centre containing monuments shall be deemed to be used for military purposes whenever it is used for the movement of military personnel or material, even in transit. The same shall apply whenever activities directly connected with military operations, the stationing of military personnel, or the production of war material are carried on within the centre.
  4. The guarding of cultural property mentioned in paragraph I above by armed custodians specially empowered to do so, or the presence, in the vicinity of such cultural property, of police forces normally responsible for the maintenance of public order, shall not be deemed to be used for military purposes.
  5. If any cultural property mentioned in paragraph I of the present Article is situated near an important military objective as defined in the said paragraph, it may nevertheless be placed under special protection if the High Contracting Party asking for that protection undertakes, in the event of armed conflict, to make no use of the objective and particularly, in the case of a port, railway station or aerodrome, to divert all traffic therefrom. In that event, such diversion shall be prepared in time of peace.
  6. Special protection is granted to cultural property by its entry in the "International Register of Cultural Property under Special Protection". This entry shall only be made, in accordance with the provisions of the present Convention and under the conditions provided for in the Regulations for the execution of the Convention.

#### Immunity of Cultural Property under Special Protection

##### Article 9

The High Contracting Parties undertake to ensure the immunity of cultural property under special protection by refraining, from the time of entry in the International Register, from any act of hostility directed against such property and, except for the cases provided for in paragraph 5 of Article 8, from any use of such property or its surround-

ings for military purposes.

#### Identification and Control

##### Article 10

During an armed conflict, cultural property under special protection shall be marked with the distinctive emblem described in Article 16, and shall be open to international control as provided for in the Regulations for the execution of the Convention.

#### Withdrawal of Immunity

##### Article 11

1. If one of the High Contracting Parties commits, in respect of any item of cultural property under special protection, a violation of the obligations under Article 9, the opposing Party shall, so long as this violation persists, be released from the obligation to ensure the immunity of the property concerned. Nevertheless, whenever possible, the latter Party shall first request the cessation of such violation within a reasonable time.
2. Apart from the case provided for in paragraph I of the present Article, immunity shall be withdrawn from cultural property under special protection only in exceptional cases of unavoidable military necessity, and only for such time as that necessity continues. Such necessity can be established only by the officer commanding a force the equivalent of a division in size or larger. Whenever circumstances permit, the opposing Party shall be notified, a reasonable time in advance, of the decision to withdraw immunity.
3. The Party withdrawing immunity shall, as soon as possible, so inform the Commissioner-General for cultural property provided for in the Regulations for the execution of the Convention, in writing, stating the reasons.

### CHAPTER III: TRANSPORT OF CULTURAL PROPERTY

#### Transport under Special Protection

##### Article 12

1. Transport exclusively engaged in the transfer of cultural property, whether with-

in a territory or to another territory, may, at the request of the High Contracting Party concerned, take place under special protection in accordance with the conditions specified in the Regulations for the execution of the Convention.

2. Transport under special protection shall take place under the international supervision provided for in the aforesaid Regulations and shall display the distinctive emblem described in Article 16.
3. The High Contracting Parties shall refrain from any act of hostility directed against transport under special protection.

#### Transport in Urgent Cases

##### Article 13

1. If a High Contracting Party considers that the safety of certain cultural property requires its transfer and that the matter is of such urgency that the procedure laid down in Article 12 cannot be followed, especially at the beginning of an armed conflict, the transport may display the distinctive emblem described in Article 16, provided that an application for immunity referred to in Article 12 has not already been made and refused. As far as possible, notification of transfer should be made to the opposing Parties. Nevertheless, transport conveying cultural property to the territory of another country may not display the distinctive emblem unless immunity has been expressly granted to it.
2. The High Contracting Parties shall take, so far as possible, the necessary precautions to avoid acts of hostility directed against the transport described in paragraph 1 of the present Article and displaying the distinctive emblem.

#### Immunity from Seizure, Capture and Prize

##### Article 14

1. Immunity from seizure, placing in prize, or capture shall be granted to:
  - (a) cultural property enjoying the protection provided for in Article 12 or that provided for in Article 13;
  - (b) the means of transport exclusively engaged in the transfer of such cultural property.
2. Nothing in the present Article shall limit the right of visit and search.

### CHAPTER IV: PERSONNEL

## Personnel

### Article 15

As far as is consistent with the interests of security, personnel engaged in the protection of cultural property shall, in the interests of such property, be respected and, if they fall into the hands of the opposing Party, shall be allowed to continue to carry out duties whenever the cultural property for which they are responsible has also fallen into the hands of the opposing Party.

## CHAPTER V: THE DISTINCTIVE EMBLEM

### Emblem of the Convention

#### Article 16

1. The distinctive emblem of the Convention shall take the form of a shield, pointed below, per saltire blue and white (a shield consisting of a royal-blue square, one of the angles of which forms the point of the shield, and of a royal-blue triangle above the square, the space on either side being taken up by a white triangle).
2. The emblem shall be used alone, or repeated three times in a triangular formation (one shield below), under the conditions provided for in Article 17.

### Use of the Emblem

#### Article 17

1. The distinctive emblem repeated three times may be used only as a means of identification of:
  - (a) immovable cultural property under special protection;
  - (b) the transport of cultural property under the conditions provided for in Articles 12 and 13;
  - (c) improvised refuges, under the conditions provided for in the Regulations for the execution of the Convention.
2. The distinctive emblem may be used alone only as a means of identification of:
  - (a) cultural property not under special protection;
  - (b) the persons responsible for the duties of control in accordance with the

- (c) Regulations for the execution of the Convention;
- (d) the personnel engaged in the protection of cultural property;
- (e) the identity cards mentioned in the Regulations for the execution of the Convention.

3. During an armed conflict, the use of the distinctive emblem in any other cases than those mentioned in the preceding paragraphs of the present Article, and the use for any purpose whatever of a sign resembling the distinctive emblem, shall be forbidden.
4. The distinctive emblem may not be placed on any immovable cultural property unless at the same time there is displayed an authorization duly dated and signed by the competent authority of the High Contracting Party.

## CHAPTER VI: SCOPE OF APPLICATION OF THE CONVENTION

### Application of the Convention

#### Article 18

1. Apart from the provisions which shall take effect in time of peace, the present Convention shall apply in the event of declared war or of any other armed conflict which may arise between two or more of the High Contracting Parties, even if the state of war is not recognized by one or more of them.
2. The Convention shall also apply to all cases of partial or total occupation of the territory of a High Contracting Party, even if the said occupation meets with no armed resistance.
3. If one of the Powers in conflict is not a Party to the present Convention, the Powers which are Parties thereto shall nevertheless remain bound by it in their mutual relations. They shall furthermore be bound by the Convention, in relation to the said Power, if the latter has declared that it accepts the provisions thereof and so long as it applies them.

### Conflicts Not of an International Character

#### Article 19

1. In the event of an armed conflict not of an international character occurring within the territory of one of the High Contracting Parties, each party to the conflict shall be bound to apply, as a minimum, the provisions of the present Convention which relate to respect for cultural property.

2. The parties to the Conflict shall endeavour to bring into force, by means of special agreements, all or part of the other provisions of the present Convention.
3. The United Nations Educational, Scientific and Cultural Organization may offer its services to the parties to the conflict.
4. The application of the preceding provisions shall not affect the legal status of the parties to the conflict.

## 1977 ADDITIONAL PROTOCOL I

(excerpts)

### Chapter III Civilian objects

#### Article 52 General Protection of civilian objects

1. Civilian objects shall not be the object of attack or of reprisals. Civilian objects are all objects which are not military objectives as defined in paragraph 2.
2. Attacks shall be limited strictly to military objectives. In so far as objects are concerned, military objectives are limited to those objects which by their nature, location, purpose or use make an effective contribution to military action and whose total or partial destruction, capture or neutralization, in the circumstances ruling at the time, offers a definite military advantage.
3. In case of doubt whether an object which is normally dedicated to civilian purposes, such as a place of worship, a house or other dwelling or a school, is being used to make an effective contribution to military action, it shall be presumed not to be so used.

#### Article 53 Protection of cultural objects and of places of worship

Without prejudice to the provisions of the Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict of 14 May 1954, and of other relevant international instruments, it is prohibited:

- (a) to commit any acts of hostility directed against the historic monuments, works of art or places of worship which constitute the cultural or spiritual heritage of peoples;
- (b) to use such objects in support of the military effort;
- (c) to make such objects the object of reprisals.

#### Article 54 Protection of objects indispensable to the survival of the civilian population

1. Starvation of civilians as a method of warfare is prohibited.
2. It is prohibited to attack, destroy, remove or render useless objects indispensable

to the survival of the civilian population, such as food-stuffs, agricultural areas for the production of food-stuffs, crops, livestock, drinking water installations and supplies and irrigation works, for the specific purpose of denying them for their sustenance value to the civilian population or to the adverse Party, whatever the motive, whether in order to starve out civilians, to cause them to move away, or for any other motive.

3. The prohibitions in paragraph 2 shall not apply to such of the objects covered by it as are used by an adverse Party:
  - (a) as sustenance solely for the members of its armed forces; or
  - (b) if not as sustenance, then in direct support of military action, provided, however, that in no event shall actions against these objects be taken which may be expected to leave the civilian population with such inadequate food or water as to cause its starvation or force its movement.
4. These objects shall not be made the object of reprisals.
5. In recognition of the vital requirements of any Party to the conflict in the defence of its national territory against invasion, derogation from the prohibitions contained in paragraph 2 may be made by a Party to the conflict within such territory under its own control where required by imperative military necessity.

#### Article 55 Protection of the natural environment

1. Care shall be taken in warfare to protect the natural environment against widespread, long-term and severe damage. This protection includes a prohibition of the use of methods or means of warfare which are intended or may be expected to cause such damage to the natural environment and thereby to prejudice the health or survival of the population.
2. Attacks against the natural environment by way of reprisals are prohibited.

#### Article 56 Protection of works and installations containing dangerous forces

1. Works or installations containing dangerous forces, namely dams, dykes and nuclear electrical generating stations, shall not be made the object of attack, even where these objects are military objectives, if such attack may cause the release



of dangerous forces and consequent severe losses among the civilian population. Other military objectives located at or in the vicinity of these works or installations shall not be made the object of attack if such attack may cause the release of dangerous forces from the works or installations and consequent severe losses among the civilian population.

2. The special protection against attack provided by paragraph 1 shall cease:
  - (a) for a dam or a dyke only if it is used for other than its normal function and in regular, significant and direct support of military operations and if such attack is the only feasible way to terminate such support;
  - (b) for a nuclear electrical generating station only if it provides electric power in regular, significant and direct support of military operations and if such attack is the only feasible way to terminate such support;
  - (c) for other military objectives located at or in the vicinity of these works or installations only if they are used in regular, significant and direct support of military operations and if such attack is the only feasible way to terminate such support.
3. In all cases, the civilian population and individual civilians shall remain entitled to all the protection accorded them by international law, including the protection of the precautionary measures provided for in Article 57. If the protection ceases and any of the works, installations or military objectives mentioned in paragraph 1 is attacked, all practical precautions shall be taken to avoid the release of the dangerous forces.
4. It is prohibited to make any of the works, installations or military objectives mentioned in paragraph 1 the object of reprisals.
5. The Parties to the conflict shall endeavour to avoid locating any military objectives in the vicinity of the works or installations mentioned in paragraph 1. Nevertheless, installations erected for the sole purpose of defending the protected works or installations from attack are permissible and shall not themselves be made the object of attack, provided that they are not used in hostilities except for defensive actions necessary to respond to attacks against the protected works or installations and that their armament is limited to weapons capable only of repelling hostile action against the protected works or installations.
6. The High Contracting Parties and the Parties to the conflict are urged to conclude further agreements among themselves to provide additional protection for objects containing dangerous forces.
7. In order to facilitate the identification of the objects protected by this article, the Parties to the conflict may mark them with a special sign consisting of a group of three bright orange circles placed on the same axis, as specified in Article 16 of Annex I to this Protocol [Article 17 of Amended Annex]. The absence of such marking in no way relieves any Party to the conflict of its obligations under this Article.