
EVOLUTION OF THE GENEVA CONVENTIONS: FROM BATTLEFIELD PROTECTIONS TO MODERN WARFARE CHALLENGES

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ABSTRACT

The 1949 Geneva Conventions are widely regarded as the foundation of modern international humanitarian law. They serve not just as a guide but as a legally binding set of principles that every nation is expected to uphold, irrespective of the nature of the conflict.

Ratified by nearly every country in the world, the Geneva Conventions have a universal status that few other treaties possess. They establish a baseline of humanity that has become integral to the conduct of war, underscoring that, even in warfare, some actions are beyond the bounds of acceptable behaviour.

The conventions also set forth critical concepts that would shape international law in the decades that followed. These principles have guided global responses to conflicts in places like Yugoslavia, Rwanda, and Syria, where humanitarian law is invoked in efforts to protect civilians and ensure accountability for violations.

However, the relevance of the Geneva Conventions has also been challenged by new forms of conflict and the rise of non-state actors. With the advent of cyber warfare, drone strikes, and asymmetrical warfare, questions have emerged about how these conventions apply to technologies and strategies that did not exist in 1864. In this research paper, let us discuss the evolution of the Geneva Conventions and its effectiveness in modern warfare.

Keywords: 1977 Additional Protocols, Civilian Protection, Drone technology, Genocide, Geneva Conventions, Hamdan v. Rumsfeld, Non-international conflicts, non-state actors, POWs (Prisoners of war), Prosecutor v. Tadić, Sexual Violence, War Crimes, Cyber Warfare

1. Introduction

The Geneva Conventions represent one of the most enduring frameworks of international humanitarian law, aiming to limit the inhumanity of armed conflict. Its journey began in 1859 on the blood-soaked battlefield of Solferino, where Henry Dunant, a Swiss businessman, witnessed unimaginable suffering.

Moved by the agony of wounded soldiers left uncared for, he organized local villagers to aid all soldiers, regardless of their side. This terrible experience sparked his vision for a permanent humanitarian framework in war, which he detailed in *A Memory of Solferino*.

His call to action resonated, and in 1864, sixteen nations gathered in Geneva to adopt the First Geneva Convention, establishing protections for the wounded and medical personnel and creating the Red Cross as a neutral emblem. This first convention marked the birth of international humanitarian law, introducing principles of humanity and neutrality that would set limits on wartime conduct.

Over the years, the Geneva Conventions evolved with new protocols in 1906, 1929, and most significantly in 1949, to protect not only wounded soldiers but also prisoners of war and civilians. These foundational rules remain relevant today, aiming to safeguard human dignity even amid conflict. These principles have ensured that, even in the reality of war, there remain rules like the safeguard of non-combatants, and the dignified treatment of all, without discrimination of allegiance.

However here, the question arises, with the emergence of technology, the existence of non-state actors and new forms of war, have the conventions outlived their ability?

This research paper aims at examining how the Geneva Conventions have evolved over time in response to the dynamics of war, scrutinizing its ability to adapt to a changed modern conflict whilst still upholding humanitarian standards. Based on historical developments, real-world applications, and present-day challenges, the paper will evaluate the relevance of conventions in the current conflict.

2. Research Objective and Scope

1. To study the evolution of the Geneva Conventions.

2. To analyse the applicability of the Geneva Conventions to Modern Conflicts.
3. To comment on the Effectiveness and Limitations of the same.

In this research paper we shall look into the historical development of the Geneva Convention and its Additional Protocols. Following that we will conduct an in-depth analysis of the applicability of the Geneva Conventions in Modern Warfare along with case studies of real-life scenarios. We shall conclude the research by remarking on the effectiveness and limitations of the Geneva Conventions along with its future prospects.

3. Historical Development of Geneva Conventions

The Geneva Conventions are undoubtedly the greatest appeal for mercy in the times of war in humankind's history. They have transformed with every major transformation in the world of combat as they have been redefined to suit the new set of circumstances and still offer critical safeguarding to individuals who are victims of the worst of wars.

3.1. 1864 Geneva Convention: The Birth of Humanitarian Law

The Geneva Conventions began not as an international summit or a treaty negotiation, but as a response to one man's horror at what he witnessed on the battlefield. In 1859, Swiss businessman Henry Dunant witnessed the suffering of wounded soldiers at the Battle of Solferino. He rallied locals to help and later wrote *A Memory of Solferino*¹, urging universal protections for war victims.

Dunant's work struck a chord with European leaders, and in 1864, representatives from sixteen nations gathered in Geneva, Switzerland, to draft what would become the First Geneva Convention.² This initial agreement focused on providing care to wounded soldiers in battle and marked the first internationally recognized code of humanitarian conduct in warfare.

The convention introduced the Red Cross symbol as a sign of neutrality, designating medical personnel and facilities as untouchable during combat. For the first time, humanity was

¹ Henry Dunant, *A Memory of Solferino*, 13 (1862), <https://www.icrc.org/sites/default/files/external/doc/en/assets/files/publications/icrc-002-0361.pdf>

² International Committee of the Red Cross, <https://ihl-databases.icrc.org/en/ihl-treaties/gci-1949>, last visited November 7, 2024

prioritized above the interests of war, and protections were formalized for those who might otherwise be abandoned on the battlefield.

3.2. 1906 and 1929 Conventions: Expanding Protections

As warfare evolved with new technologies and increasingly brutal tactics, it became clear that additional safeguards were necessary to protect more than just the wounded on land.

In 1906, the Geneva Convention was expanded to include the treatment of wounded and sick soldiers at sea, reflecting the need for humanitarian measures in naval battles, where medical facilities were equally vulnerable and essential. This update adapted to new forms of warfare while preserving the core principles of the original 1864 convention.³

The horrors of World War I brought new urgency to these discussions. During the war, soldiers taken prisoner often suffered severe hardships, facing neglect, starvation, and abuse. The 1929 Geneva Convention responded to these realities by addressing the treatment of prisoners of war (POWs), establishing standards for their humane treatment, including adequate food, medical care, and protection from violence and forced labour.⁴

This convention marked a significant expansion of international humanitarian law, extending protections to captured soldiers and recognizing the vulnerability of Prisoners of War, who, by virtue of their capture, became utterly dependent on their captors.

3.3. Post-WWII Revisions: The 1949 Geneva Conventions

The devastation of World War II, however, exposed the terrifying limits of these conventions. Nazi concentration camps, the mass bombings of civilians, and the wartime atrocities that plagued every front line demonstrated that existing protections were not enough to prevent immense suffering.

The entire framework of humanitarian law needed reinforcement and expansion. Following the war, the international community recognized the urgent need for comprehensive protections

³ International Committee of the Red Cross, <https://ihl-databases.icrc.org/en/ihl-treaties/gcii-1949>, last visited November 7, 2024

⁴ International Committee of the Red Cross, <https://ihl-databases.icrc.org/en/ihl-treaties/gciii-1949>, last visited November 7, 2024

that could address these unprecedented horrors.

In 1949, representatives from countries around the world gathered again in Geneva to revise and significantly expand the conventions. The result was a set of four Geneva Conventions that have since become the foundation of modern international humanitarian law. Each of these four conventions addressed a distinct aspect of wartime protection.

The **First Convention** refined the original 1864 agreement, focusing on the protection of wounded and sick soldiers on land, ensuring they would be treated humanely and cared for by medical personnel who were protected from attack.

The **Second Convention** extended these protections to those wounded, sick, and shipwrecked at sea, ensuring that even in the chaotic environment of naval warfare, humane treatment would be prioritized over strategic gain.

The **Third Convention** expanded on the 1929 provisions for POWs, establishing comprehensive standards for their treatment. This included mandates for food, medical care, and humane conditions, and prohibited coercive measures and forced labour, recognizing that POWs had the right to dignity and safety even in captivity.

The **Fourth Convention**, perhaps the most groundbreaking, introduced protections for civilians caught in conflict zones. This convention established the principles that civilians must not be targeted, and that occupied populations should be protected from exploitation, abuse, and displacement.⁵

These four conventions represented a monumental shift in the laws of war. They acknowledged the profound impact that modern warfare had on both combatants and non-combatants and codified principles to protect the most vulnerable in any conflict.

The conventions set forth that the right to humane treatment is universal, extending to soldiers who are unable to fight, civilians caught in combat, and prisoners far from their homelands. The Geneva Conventions became the ultimate standards for humanitarianism in warfare, reflecting humanity's moral obligation to protect life and dignity, even in the darkest times.

⁵ International Committee of the Red Cross, <https://ihl-databases.icrc.org/en/ihl-treaties/gciv-1949>, last visited November 7, 2024

4. Expansions and Adaptations: 1977 Additional Protocols

In the wake of World War II, the landscape of warfare shifted dramatically, giving rise to new conflicts that blurred the lines between combatants and civilians. The horrors of these conflicts, particularly during the decolonization era and the Cold War, underscored the urgent need for humanitarian protections that addressed the realities of modern warfare.

In response, the international community convened once again, leading to the adoption of the 1977 Additional Protocols to the Geneva Conventions. These protocols represented a significant evolution in international humanitarian law, expanding protections and adapting to the complexities of contemporary conflicts.

Protocol I aimed at protecting victims in international armed conflicts. Article 1(4) of this Protocol establishes a groundbreaking provision: it classifies armed struggles against colonial oppression, foreign occupation, or racist regimes as international conflicts, thereby expanding the scope of international humanitarian law.⁶

Part II of this reinforces and broadens the protections found in the First and Second Geneva Conventions, which apply to the wounded, sick, and shipwrecked. This section now extends protections to civilian medical staff, their essential equipment, supplies, and transport vehicles, with detailed measures to ensure safe medical transport.

Parts III and IV focus on the rules of engagement—an area previously governed by the Hague Conventions of 1899 and 1907 and by customary law. Updating these rules was crucial as many newly independent states had not been part of the original Hague framework⁷. This section redefines the concepts of armed forces and combatants and introduces critical protections for civilians. It specifies military targets and firmly prohibits attacks on civilian lives and infrastructure. Further, it addresses the rights of civil defence organizations, humanitarian relief operations, and individuals under the power of a conflicting party.

Finally, Part V introduces important measures for enforcing the Conventions and Protocol, aiming to enhance accountability and the effective application of these humanitarian

⁶ International Committee of the Red Cross, <https://ihl-databases.icrc.org/en/ihl-treaties/api-1977>, last visited November 7, 2024

⁷ The Hague Conventions of 1899 and 1907

safeguards.

Protocol I emerged as a powerful safeguard for civilians in international conflicts, responding to the catastrophic impact that modern warfare had on non-combatants. It established the principles of distinction and proportionality, fundamental concepts that guide the lawful conduct of armed forces during conflicts to minimize harm to civilians.

Distinction requires parties to a conflict to differentiate between combatants and civilians, as well as between military objectives and civilian objects. Under this principle, only legitimate military targets should be engaged in hostilities, while civilian lives, property, and infrastructure must be safeguarded from direct attack. It ensures that civilians and non-combatants are spared from the violence of war as much as possible, and it prohibits indiscriminate attacks that fail to make this essential differentiation.

Proportionality limits the extent of permissible force by weighing military advantage against potential civilian harm. Even if a target is legitimate, the attack is unlawful if it is expected to cause excessive civilian casualties or damage in relation to the anticipated military gain. This serves as a check on military actions, ensuring that the impact on civilian life and property is kept to a minimum relative to the strategic benefits.

Together, these principles form the ethical and legal foundation for protecting civilian populations in times of war, reinforcing the Geneva Conventions' commitment to humanitarian standards.

Protocol II took a different but equally vital approach, recognizing the growing prevalence of non-international conflicts, such as civil wars, and the involvement of non-state actors. Non-state actors refer to individuals or groups that participate in international or national affairs without being affiliated with any government, including armed groups, humanitarian organizations, multinational corporations, and NGOs.⁸

This protocol set forth comprehensive guidelines for the treatment of individuals in situations of internal strife, asserting that all parties, regardless of their status, must adhere to humanitarian principles.

⁸ International Committee of the Red Cross, <https://ihl-databases.icrc.org/en/ihl-treaties/apii-1977>, last visited November 7, 2024

Before Protocol II, the only provision governing internal conflicts was Article 3⁹, common to all four Geneva Conventions of 1949. However, Article 3 was widely considered inadequate, as nearly 80% of conflict casualties since 1945 had occurred in non-international conflicts, often marked by intense brutality. Protocol II's purpose is to extend vital humanitarian protections to these internal conflicts.

It aimed to ensure that even in the absence of a formal declaration of war, basic standards of humane treatment would be upheld for all affected individuals. By addressing the realities of civil wars, Protocol II marked a crucial adaptation of humanitarian law, recognizing that conflicts were no longer solely between sovereign states but often involved various factions and non-state groups.

However, the adoption of these protocols was not without contention. Some countries, including the United States, expressed reservations and chose not to ratify them. Concerns regarding the inclusion of non-state actors within the framework of the protocols loomed large.

The U.S. feared that such inclusion could undermine its military operations, particularly in counter-terrorism efforts, where distinguishing between combatants and civilians is often challenging¹⁰. Critics argued that Protocol II could inadvertently legitimize insurgent groups and restrict the actions of state forces during conflicts.

To address these worries, the Diplomatic Conference opted to streamline and condense the Protocol. Instead of the 47 articles initially proposed by the International Committee of the Red Cross (ICRC), the final document included 28 articles—though its core principles were preserved.

Notably, it preserves a powerful prohibition against the brutal "no-survivors" orders, which are often associated with severe atrocities. Article 4 (Fundamental Guarantees) enshrines this prohibition, marking a firm stance against indiscriminate killings by explicitly forbidding orders or threats that would lead to the extermination of those in the enemy's control. This reinforces the essential principle of respect for human life, even in the heat of internal conflicts.

⁹ Geneva Conventions of 1949 (Common Article 3), Diplomatic Conference of Geneva, 1949

¹⁰ ICRC Casebook, <https://casebook.icrc.org/case-study/united-states-president-rejects-protocol-i>, last visited November 7, 2024

The Protocol also includes specific protections for civilians, found in Part IV. This emphasizes that civilians must not be targeted, affirming the right of non-combatants to be shielded from the effects of hostilities.

It also mandates precautions to protect civilian areas, prohibits acts of terror against civilians, and establishes safeguards for those fleeing conflict zones. In situations where government forces may perceive insurgent activities as a threat to law and order, these articles ensure that civilian lives and infrastructure are treated as off-limits for direct attacks.

However, a major limitation lies in Article 1 of Protocol II, which narrows the types of non-international conflicts covered under the Protocol. Article 1 specifies that it applies only to conflicts between state forces and organized armed groups that exhibit command structure and control over territory.

This restriction excludes less formalized or sporadic conflicts, meaning that many internal conflicts with high civilian casualties do not meet the criteria for Protocol II protections. In contrast, Article 3, common to all Geneva Conventions, is broader, applying to all forms of non-international armed conflict without such stringent requirements.

The 1977 Additional Protocols marked a key evolution in humanitarian law, balancing principles of humanity with national security. While many embraced the protections, reluctance from others raised concerns about their universality. Despite challenges, the protocols remain vital in upholding human dignity in modern warfare.

In 2005, Protocol III introduced the Red Crystal as a neutral emblem alongside the Red Cross and Red Crescent, addressing concerns over religious and political associations. This new symbol ensures universal protection under international law without replacing existing emblems. Its adoption aimed to enhance neutrality and inclusivity in humanitarian work worldwide.¹¹

5. Geneva Convention in Modern Warfare

As the nature of warfare continues to evolve, the Geneva Conventions face unprecedented challenges in maintaining their relevance and effectiveness. Technological advancements, the

¹¹ International Committee of the Red Cross, <https://ihl-databases.icrc.org/en/ihl-treaties/apiii-1977>, last visited November 7, 2024

rise of non-state actors, and the complexities of modern conflicts demand a critical reassessment of these foundational legal frameworks.

5.1. Technological Advancements and Asymmetrical Warfare

In an increasingly digital world, cyber warfare has emerged as a potent and often elusive form of conflict. Unlike traditional warfare, where battles are fought on defined geographical landscapes, cyber-attacks can target critical infrastructure, financial systems, and civilian networks from anywhere in the world.

The Geneva Conventions were crafted in an era when armed conflict was primarily physical and tangible; thus, they lack specific provisions addressing cyber warfare. This gap in the legal framework raises significant questions about the applicability of humanitarian law in cyberspace.

For instance, what constitutes a legitimate military target in a cyber-attack? If a cyber assault disables a hospital's computer systems, rendering it unable to function, does that constitute a violation of the Geneva Conventions' principles of distinction and proportionality? The answer remains murky, as international humanitarian law (IHL) was not designed to address the nuanced realities of cyber warfare.¹²

Moreover, the anonymity of cyber attackers complicates accountability. In traditional warfare, the identity of combatants and non-combatants can often be discerned; however, in cyberspace, perpetrators can operate behind layers of obfuscation.

This anonymity can lead to a reluctance among states to engage in international legal mechanisms that might expose their cyber capabilities or intentions. As nations grapple with these challenges, there is an urgent need for the development of new legal frameworks that specifically address the implications of cyber warfare on IHL and humanitarian protections.¹³

The advent of drone technology has fundamentally changed the landscape of modern warfare, particularly in counterterrorism operations. Drones allow for precision strikes that can

¹² Sari, Aurel. "The Status of the Taliban under International Law." 3(1) *UiO Faculty of Law Research Paper Series* 1 (2008), <https://www.duo.uio.no/bitstream/handle/10852/38627/1/642.pdf>.

¹³ Cybercrime Law, https://www.cybercrimelaw.net/documents/Article_on_Geneva_Convention_or_Declaration_for_Cyberspace.pdf, last visited November 7, 2024

minimize risks to military personnel while targeting high-value individuals. However, the use of drones raises critical concerns about the application of the principles of distinction and proportionality enshrined in the Geneva Conventions.

The principle of distinction requires that combatants differentiate between military objectives and civilians. However, the remote nature of drone operations often blurs these lines. Intelligence-driven strikes can result in civilian casualties, leading to accusations of indiscriminate attacks.

The challenge lies in assessing whether a target is a legitimate military objective or a civilian, particularly when the target's identity may not be definitively established before an attack.

Furthermore, the principle of proportionality mandates that the anticipated military advantage from an attack must outweigh the potential harm to civilians and civilian objects. In drone warfare, where decisions are made rapidly and often remotely, the risk of miscalculating the impact of an attack is heightened. This raises ethical and legal dilemmas regarding accountability for civilian casualties and the adherence to IHL principles.¹⁴

In response to these challenges, discussions around the regulation of drone warfare are ongoing. Some advocates argue for stricter oversight and accountability measures to ensure compliance with humanitarian principles. The international community faces the critical task of establishing clear guidelines that address the unique complexities of drone operations while safeguarding the rights of civilians.¹⁵

The rise of non-state actors, including insurgents and terrorist groups, poses a significant challenge to applying the Geneva Conventions. These groups operate outside state control, complicating the enforcement of international humanitarian law (IHL), which traditionally depends on state actors to uphold obligations.

The 1977 Additional Protocols attempted to address this by extending protections in non-international conflicts, yet implementation remains difficult. Non-state actors often do not

¹⁴ Wuschka, Sebastian. "The Use of Drones in Current Conflicts – A Legal Issue or a Political Problem?" 3(3) *Goettingen Journal of International Law* 891 (2011), https://www.gojil.eu/issues/33/33_article_wuschka.pdf

¹⁵ ICIP Per la Pau, <https://www.icip.cat/perlapau/en/article/implications-of-the-use-of-drones-in-international-law/>, last visited November 7, 2024

recognize IHL's legitimacy, leading to limited compliance.

This creates dilemmas for both state and non-state entities: states struggle to hold non-state actors accountable, while these groups may exploit legal ambiguities to justify actions that contravene humanitarian principles.

These challenges highlight the need to re-evaluate the conventions' applicability to non-state actors and consider inclusive dialogues to encourage compliance with humanitarian norms. Adapting IHL to include non-state entities could strengthen protections in modern conflicts.

5.2. Customary International Law and Judicial Precedents

As the landscape of warfare evolves, customary international law and judicial precedents play a crucial role in interpreting and applying the principles of the Geneva Conventions. Customary law emerges from consistent state practice and a sense of legal obligation, often filling gaps where treaty law may be silent or inadequate.

The International Committee of the Red Cross (ICRC) has been instrumental in promoting the development of customary law, particularly in relation to emerging conflict types.

International bodies, such as International Criminal Tribunal for the former Yugoslavia (ICTY) and International Criminal Court (ICC), have also contributed to the evolving interpretation of IHL principles. Notably, these tribunals have addressed issues arising from unconventional conflict scenarios, setting important precedents for accountability and humanitarian norms.

The case *Prosecutor v. Tadić* (1995)¹⁶, heard by the International Criminal Tribunal for the Former Yugoslavia (ICTY), was a landmark decision that expanded the application of International Humanitarian Law (IHL) to non-international armed conflicts. This case involved Dusko Tadić, a Bosnian Serb charged with committing war crimes, including persecution and inhumane acts, during the Yugoslav wars. The ICTY faced a significant question: could IHL apply to an internal conflict, where hostilities were not solely between states?

In its ruling, the ICTY confirmed that the fundamental principles of IHL apply not only in international conflicts but also in non-international ones, extending protections under the

¹⁶ Prosecutor v. Tadić, ICTY, IT-94-1-A, Appeals Chamber, 1995

Geneva Conventions. The decision emphasized that Common Article 3 of the Geneva Conventions, addressing humane treatment and protection for civilians and combatants in non-international conflicts—sets a minimum humanitarian standard universally binding on all parties, regardless of their formal status.

The Tadić case underscored that individuals could be held criminally accountable for violations in internal conflicts, establishing that the protections outlined by the Geneva Conventions were not limited to traditional interstate wars. This precedent reinforced IHL's adaptability to modern conflicts and the importance of accountability for war crimes, helping shape international legal standards.

6. Case Studies

The Geneva Conventions, established to ensure humanitarian treatment during armed conflicts, have been applied in various historical contexts, each revealing the complexities and challenges of upholding these principles in practice.

This section examines five significant case studies: the Vietnam War, the Yugoslav Wars, the Rwandan Genocide, the Iraq and Afghanistan conflicts, and the ongoing conflict in Ukraine. Each case highlights how the Geneva Conventions have been invoked, the limitations faced, and the role of international law in addressing violations.

6.1. Vietnam War: POW Protections and Limitations

The Vietnam War (1955–1975) was a protracted conflict that involved not only conventional military engagements but also guerrilla warfare, leading to complex dynamics regarding the treatment of prisoners of war (POWs). The Geneva Conventions, particularly the Third Convention, delineate protections for POWs, including humane treatment, the prohibition of torture, and guarantees of basic rights.

During the Vietnam War, the treatment of POWs became a contentious issue. American soldiers captured by North Vietnamese forces were often held in appalling conditions, leading to widespread reports of torture and abuse.

One infamous location, the “Hanoi Hilton,” served as a prison for American POWs, where many endured brutal interrogations, psychological torment, and inadequate medical care. For

instance, Senator John McCain¹⁷, a former POW, recounted his harrowing experiences of being tortured and denied basic rights, emphasizing the stark violations of the Geneva Conventions.

The U.S. also faced scrutiny regarding its treatment of captured Viet Cong soldiers. The military's justification for harsh treatment often stemmed from the nature of the conflict, as many Viet Cong fighters were not officially recognized as combatants under the conventions, which allowed the U.S. to sidestep some of its obligations under international law. The legal ambiguities surrounding the status of these fighters created significant challenges in enforcing POW protections.

Moreover, the lack of reciprocal treatment by both sides complicated matters further. The North Vietnamese often claimed that they did not recognize the Geneva Conventions, arguing that they were fighting for national liberation rather than engaging in a conventional war. This situation underscored the limitations of the conventions in asymmetric warfare, where the lines between combatants and non-combatants blur, making compliance difficult.

As the war progressed, public awareness of POW treatment led to increased pressure on the U.S. government to address these violations. The eventual return of POWs following the Paris Peace Accords in 1973 brought some closure, but the lasting legacy of these violations raised critical questions about accountability and adherence to the Geneva Conventions in future conflicts.¹⁸

6.2. Yugoslav Wars: Widespread Violations and the ICTY's Task

The Yugoslav Wars (1991–2001) marked a dark chapter in European history, characterized by widespread atrocities, ethnic cleansing, and grave violations of the Geneva Conventions. The conflicts, fuelled by nationalism and ethnic tensions, resulted in mass killings, systematic rape, and forced displacement. The brutalities of the wars challenged the international community's commitment to the Geneva principles, demanding urgent responses and mechanisms for accountability.

¹⁷ U.S. News & World Report, <https://www.usnews.com/news/articles/2008/01/28/john-mccain-prisoner-of-war-a-first-person-account>, last visited November 7, 2024

¹⁸ Agreement on Ending the War and Restoring Peace in Viet-Nam (Paris Peace Accords), Jan. 27, 1973, 24 U.S.T. 1, 935 U.N.T.S. 2.

The establishment of the International Criminal Tribunal for the former Yugoslavia (ICTY) in 1993 was a pivotal moment in the enforcement of international humanitarian law. The ICTY was tasked with prosecuting war crimes, including genocide, crimes against humanity, and violations of the Geneva Conventions. It became instrumental in addressing the widespread atrocities committed during the Yugoslav Wars and holding perpetrators accountable.

One of the most significant cases prosecuted by the ICTY was that of **Radovan Karadžić**¹⁹, the former leader of the Bosnian Serbs, who was charged with genocide for his role in the Srebrenica massacre, where over 8,000 Bosnian Muslim men and boys were killed in 1995. The tribunal found that Karadžić's actions constituted violations of the Geneva Conventions, particularly the prohibitions against targeting civilians and committing acts of genocide.

The ICTY not only reinforced the principles of the Geneva Conventions but also contributed to the evolution of international law by establishing important precedents regarding the responsibility of leaders for war crimes. The tribunal's rulings emphasized that individuals, including heads of state, could be held accountable for violations, thereby enhancing the enforcement mechanisms of humanitarian law.

The Yugoslav Wars also highlighted the challenges of enforcing the Geneva Conventions in the face of widespread violations. Despite the establishment of the ICTY, the effectiveness of the tribunal was hampered by political challenges and the complexities of prosecuting individuals who operated in a decentralized conflict landscape. Nonetheless, the tribunal's work underscored the importance of international justice in addressing egregious violations and reaffirming the principles of humanitarian law in post-conflict societies.

6.3. Rwanda Genocide: Role of Geneva Conventions in Defining and Prosecuting Genocide

The Rwandan Genocide in 1994 stands as one of the most horrific examples of mass violence in modern history, resulting in the deaths of an estimated 800,000 Tutsi and moderate Hutu in just 100 days.²⁰ The rapid escalation of violence and the systematic targeting of civilians raised critical questions about the application of the Geneva Conventions and the international

¹⁹ Prosecutor v. Radovan Karadžić, ICTY, IT-95-5/18-T, Trial Chamber, 2016

²⁰ United Nations, <https://www.un.org/en/preventgenocide/rwanda/historical-background.shtml>, last visited November 7, 2024

community's responsibility to intervene and protect vulnerable populations.

The Geneva Conventions, particularly the Fourth Convention, emphasize the protection of civilians during armed conflicts and prohibit acts of genocide. However, during the Rwandan Genocide, these protections were largely ignored. The international community's failure to act, despite clear warnings and evidence of impending violence, has been widely criticized as a grave moral and legal failure.

In the aftermath of the genocide, the United Nations established the International Criminal Tribunal for Rwanda (ICTR) to prosecute individuals responsible for genocide and other serious violations of international humanitarian law. The ICTR invoked the Geneva Conventions and the Genocide Convention in its proceedings, highlighting the critical intersection between these legal frameworks.

One landmark case was that of **Jean-Paul Akayesu**²¹, the former mayor of Taba, who was convicted by the ICTR for his role in the genocide. The tribunal found that Akayesu had facilitated the murder and rape of Tutsi civilians, leading to a groundbreaking ruling that recognized sexual violence as an act of genocide.²²

This precedent expanded the understanding of genocide and underscored the importance of protecting civilians from gender-based violence in conflict.

The ICTR's application of the Geneva Conventions in the context of genocide marked a significant development in international law, establishing the principle that individuals could be held accountable for their actions during atrocities. The tribunal's work reinforced the necessity of international legal frameworks in defining and prosecuting genocide while highlighting the need for robust mechanisms to prevent future occurrences.

6.4. Iraq and Afghanistan Conflicts: Detainee Rights and Asymmetrical Warfare

The conflicts in Iraq and Afghanistan have presented unique challenges to the application of the Geneva Conventions, particularly concerning the treatment of detainees. The post-9/11 military operations marked a shift towards asymmetric warfare, where traditional battle lines

²¹ Prosecutor v. Jean-Paul Akayesu, ICTR, ICTR-96-4-T, Trial Chamber, 1998

²² International Crimes Database, <https://www.internationalcrimesdatabase.org/Case/50/Akayesu/>, last visited November 7, 2024

were blurred, and the nature of combatants evolved. This shift raised critical questions about the applicability of the Geneva Conventions and the treatment of captured individuals.

In the context of the Iraq War, the treatment of detainees at Abu Ghraib prison became emblematic of the violations of the Geneva Conventions. Graphic images of torture and abuse surfaced in 2004, shocking the world and igniting outrage over the U.S. military's treatment of detainees.²³

The revelations raised profound ethical and legal questions regarding the U.S. government's adherence to its obligations under the Geneva Conventions.

The Geneva Conventions' provisions concerning the treatment of POWs and civilians prohibit torture and inhumane treatment, emphasizing the need for humane treatment regardless of the individual's status. However, the U.S. government argued that individuals captured in the "war on terror" did not qualify as POWs under the conventions, complicating the legal landscape surrounding detainee rights.

The U.S. Supreme Court ruled in *Hamdan v. Rumsfeld*²⁴ that the military commissions set up to try detainees at Guantanamo Bay violated the Uniform Code of Military Justice and the Geneva Conventions, affirming that the Geneva Conventions could be enforced in federal court, but the applicability of these protections may vary based on individual circumstances.

The ruling affirmed that Common Article 3, which prohibits cruel treatment and torture, applies to all individuals captured in armed conflicts, regardless of their status. This decision underscored the importance of upholding humanitarian principles even in unconventional warfare, reinforcing the Geneva Conventions' relevance in contemporary conflicts.

The challenges surrounding detainee rights in Iraq and Afghanistan highlighted the complexities of applying international humanitarian law in asymmetric warfare. As the nature of conflict evolved, so too did the legal interpretations of the Geneva Conventions, necessitating ongoing dialogues about the rights of individuals captured in armed conflicts.

²³ Chopra, Ruma. "The Abu Ghraib Scandal: A Crisis of Accountability." *San José State University*, 2012, https://www.sjsu.edu/people/ruma.chopra/courses/H170_MW9am_S12/s1/Abu_Ghraid.pdf

²⁴ *Hamdan v. Rumsfeld*, 548 U.S. 557 (2006)

6.5. Ukraine Conflict: Contemporary Application and Investigations into War Crimes

The ongoing conflict in Ukraine, which escalated dramatically in 2022, has brought renewed attention to the Geneva Conventions and their applicability in protecting civilians and addressing war crimes.

As hostilities continue, reports of violations of international humanitarian law, including attacks on civilian infrastructure, forced displacement, and the treatment of POWs, have raised urgent concerns regarding compliance with the Geneva principles.

Investigations into alleged war crimes have been initiated by international bodies, including the International Criminal Court (ICC) and the United Nations. The ICC has issued arrest warrants for individuals accused of committing war crimes in Ukraine, emphasizing the need for accountability in the face of egregious violations of the Geneva Conventions.

One prominent issue in the Ukraine conflict is the deliberate targeting of civilian infrastructure, such as hospitals and schools.²⁵ The Geneva Conventions, particularly Protocol I, prohibit attacks on civilian objects and mandate the distinction between military and civilian targets. Reports of indiscriminate shelling and missile strikes on residential areas have raised serious concerns about violations of these principles.

The Ukrainian government has also reported instances of unlawful detentions and mistreatment of captured soldiers, emphasizing the need for adherence to the Geneva Conventions' standards regarding POW treatment. The complexities of asymmetrical warfare in Ukraine, where both state and non-state actors are involved, pose significant challenges for enforcing compliance with international humanitarian law.

As investigations into war crimes continue, the international community's response will play a critical role in shaping future interpretations of the Geneva Conventions in contemporary conflicts. The Ukraine conflict serves as a reminder of the enduring relevance of these legal frameworks in protecting human rights and upholding humanitarian standards amid the chaos of war.

²⁵ United Nations, <https://press.un.org/en/2024/sc15761.doc.htm>, last visited November 7, 2024

These case studies underscore the multifaceted challenges of applying the Geneva Conventions in various historical contexts. From the Vietnam War's POW controversies to the ongoing conflict in Ukraine, the conventions remain a cornerstone of international humanitarian law, striving to uphold humanity in the face of brutal realities.

However, each case also highlights the limitations and complexities of enforcing these principles, emphasizing the need for ongoing adaptation to address new forms of warfare, technological advancements, and the involvement of non-state actors.

As international tribunals and customary law evolve, they provide critical interpretations that help reinforce the conventions' principles and hold perpetrators accountable. The Geneva Conventions, while not without flaws, represent a collective commitment to humane conduct in warfare, ensuring that even in the darkest moments, there are rules that protect the dignity of all individuals affected by armed conflict.

7. Effectiveness and Limitations

The Geneva Conventions, adopted in 1949 and now universally ratified by 196 countries, serve as the foundation of International Humanitarian Law (IHL), setting standards for humane treatment during armed conflicts. Their influence extends far beyond traditional interstate wars, establishing norms that require the protection of civilians, the humane treatment of prisoners, and the care of the wounded.

The near-universal adoption of these treaties underscores the global consensus on fundamental humanitarian principles, even among nations with vastly different political systems and military doctrines.

Their core values—distinction, proportionality, and precaution—are embedded not only in IHL but in international legal systems, informing everything from military rules of engagement to UN mandates. This widespread adherence reflects the moral force and political weight the Conventions carry, making them among the most respected international agreements.

Over the decades, the Geneva Conventions have also set a powerful precedent for accountability in times of war. The International Criminal Tribunal for the former Yugoslavia (ICTY) and the International Criminal Court (ICC) were established, in part, to uphold the Conventions' principles by prosecuting war crimes and crimes against humanity.

Cases like *Prosecutor v. Tadić*²⁶ expanded IHL's reach to internal conflicts, emphasizing that the humanitarian protections outlined in the Conventions apply universally, regardless of a conflict's nature. This landmark decision underscored that all parties, state and non-state alike, bear responsibility for upholding basic humanitarian norms. Such cases have reinforced the concept that violations of IHL principles carry legal consequences, establishing personal accountability for war crimes on a global scale.

However, as warfare has evolved, so too have the challenges facing the Geneva Conventions. Modern conflicts often involve non-state actors, asymmetrical warfare, and advanced technologies such as drones and cyber warfare, all of which complicate the application of traditional IHL rules. Unlike conventional wars between states, today's conflicts frequently pit state militaries against insurgent groups or other non-state entities.

These actors are not always bound by the same legal commitments, leading to enforcement gaps. For example, in many regions where non-state groups control territory, such as parts of Syria and Yemen, the norms outlined by the Geneva Conventions are often disregarded, with devastating consequences for civilians.

Technological advancements in warfare have created additional challenges for the Geneva Conventions. Drones, for instance, allow military operations to be conducted remotely, sometimes leading to blurred lines between combatants and non-combatants, especially when strikes target individuals based on intelligence rather than direct engagement.

Cyber warfare introduces even greater complexity, as it involves potential attacks on civilian infrastructure—like hospitals, power grids, or communication networks—that may result in severe civilian harm without traditional “armed force.”

These new forms of warfare challenge the principles of distinction and proportionality because they operate in domains and with methods that the drafters of the Conventions could not have foreseen. Without explicit legal frameworks governing cyber-attacks or autonomous weapons, the Conventions struggle to offer clear guidance in many of these modern warfare scenarios.

The enforcement of the Geneva Conventions remains a significant challenge. Even when violations occur, accountability mechanisms can be difficult to implement. Many perpetrators

²⁶ *Prosecutor v. Tadić*, ICTY, IT-94-1-A, Appeals Chamber, 1995

of war crimes in recent conflicts evade prosecution due to jurisdictional limitations, political obstacles, or lack of cooperation from state actors.

For example, the ongoing conflict in Syria has seen widespread violations of IHL principles, including attacks on hospitals and civilian areas. Yet, due to geopolitical interests and the lack of a cohesive legal framework, holding parties accountable has proven elusive.²⁷

The ICC, despite its role in prosecuting war crimes, faces challenges in exercising jurisdiction over non-signatory states, limiting its reach in addressing violations under the Geneva Conventions.

In response to these limitations, there have been ongoing efforts by the International Committee of the Red Cross (ICRC) and other bodies to adapt IHL to contemporary warfare. The ICRC has advocated for the development of updated protocols that address issues specific to cyber warfare, drone strikes, and autonomous weapons.

These initiatives aim to provide clearer definitions and rules that can guide military conduct in technologically advanced combat environments. Additionally, some experts have suggested the creation of new conventions or amendments that explicitly cover the conduct of non-state actors, helping to close the enforcement gaps in modern conflicts. These proposals seek to ensure that, even as warfare evolves, the core humanitarian protections of the Geneva Conventions are preserved.

While the Geneva Conventions have shown remarkable resilience over the decades, their effectiveness in the face of modern challenges will depend on the international community's commitment to adapting and reinforcing these principles.

The Conventions continue to embody the highest standards of human dignity in wartime, but without mechanisms that address the realities of cyber warfare, drones, and non-state conflicts, these standards risk being undermined. The next steps for IHL will require balancing respect for the Geneva Conventions' foundational principles with the flexibility to address the complexities of today's and tomorrow's wars.

²⁷ Office of the High Commissioner for Human Rights, *Policy Paper on Syria*, 2022, <https://www.ohchr.org/sites/default/files/documents/hrbodies/hrcouncil/coisyria/2022-06-28/Policy-paper-CoH-27-June.pdf>

8. Future Prospects for the Geneva Conventions

With the rise of cyber warfare, drone strikes, and non-state actors, many leaders and scholars argue for updates to the conventions or even new protocols to better protect civilians and ensure compliance.

8.1. Proposed Revisions or New Protocols

As warfare increasingly moves into digital and asymmetric domains, the Geneva Conventions face new limitations. For example, cyber warfare—a threat to critical infrastructure like power grids and healthcare systems—is currently outside the scope of the Geneva frameworks.

Former UN Secretary-General António Guterres highlighted in 2021 that cyberattacks on critical infrastructure could lead to humanitarian catastrophes, urging international leaders to establish prohibitions on use of autonomous weapon systems that could harm civilians.²⁸ His statement reflects growing concerns that cyber operations could have humanitarian consequences similar to conventional attacks, warranting an explicit ban under international law.

Similarly, the expanding role of non-state actors in global conflicts complicates the application of international humanitarian law. While Protocol II of the Geneva Conventions offers some protections in non-international conflicts, it does not fully address the accountability issues related to armed groups or terrorist organizations that operate outside state control.

ICRC President Peter Maurer has advocated for clarifying the responsibilities of non-state actors, suggesting that new protocols could help close this legal gap and provide clearer protections for civilians in such conflicts.²⁹

8.2. International Collaboration and Compliance

Strengthening global compliance with the Geneva Conventions also remains a pressing challenge, as enforcement largely depends on each nation's commitment. Many leaders

²⁸ United Nations, <https://www.un.org/sg/en/content/sg/speeches/2021-01-28/remarks-member-states-priorities-for-2021>, last visited November 7, 2024

²⁹ International Committee of the Red Cross, *ICRC Annual Report Extract 2013*, 2013, <https://www.icrc.org/sites/default/files/external/doc/en/assets/files/annual-report/icrc-annual-report-extract-2013.pdf>

propose enhancing the International Criminal Court's (ICC) authority to deter violations.

The ICC has already played a role in prosecuting war crimes, applying Geneva principles in various cases. Recently, German Chancellor Olaf Scholz emphasized the need for stronger mechanisms to prosecute violations and suggested empowering the ICC to act swiftly against war crimes, signalling broader support for a coordinated international effort to uphold the conventions.³⁰

International cooperation through forums like the UN General Assembly could facilitate discussions on amendments or new protocols that address contemporary warfare. Annual meetings allow states to collectively reaffirm their commitment to Geneva principles and address emerging threats together, creating a more robust system for monitoring and enforcing compliance, particularly in conflicts involving non-state actors.

The Geneva Conventions must adapt to modern warfare's new realities. Proposed revisions for cyber warfare protections and clearer guidelines for non-state actors reflect the need for more specific rules in today's conflicts.

At the same time, enhancing enforcement through the ICC and international cooperation could strengthen compliance, ensuring that humanitarian protections endure even in complex, modern conflicts. Through such targeted amendments and collective action, the conventions can remain relevant and effective in safeguarding human dignity in war.

9. Conclusion

The Geneva Conventions began in the 19th century as a way to aid wounded soldiers, evolving into a comprehensive humanitarian framework for war. Over time, they expanded to protect prisoners of war, civilians, and vulnerable groups.

The landmark 1949 Conventions, crafted after World War II atrocities, established humane treatment principles, with later updates like the 1977 Additional Protocols addressing civilian protection and non-international conflicts. This evolution reflects a commitment to reducing

³⁰ The Economic Times, <https://economictimes.indiatimes.com/news/international/world-news/borders-should-not-be-changed-by-force-german-chancellor-olaf-scholz/articleshow/114623759.cms?from=mdr>, last visited November 7, 2024

suffering in war.

Yet, modern warfare exposes the conventions' limitations. Cyber warfare, with its potential to disrupt civilian infrastructure, lies outside the Geneva framework. The rise of non-state actors, including armed groups and terrorists, further complicates the conventions, which primarily address state actors. These new conflict forms underscore the need for adaptations, whether through new protocols or clearer guidelines.

Despite these challenges, the Geneva Conventions remain vital as a global humanitarian standard. International tribunals, like the ICTY, reinforce their influence by prosecuting war crimes and setting legal precedents. Even in asymmetrical warfare, the conventions uphold human dignity in conflict.

While rooted in history, the Geneva Conventions are still relevant but must evolve alongside warfare. Legal experts, world leaders, and humanitarian organizations increasingly call for updates to protect civilians against contemporary threats.

Sustaining the Geneva Conventions' legacy requires ongoing adaptation to ensure that international humanitarian law continues to protect human rights, regardless of conflict type.

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