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STATE PRESIDENT'S OFFICE

No. 536

12 July 2012

It is hereby notified that the President has assented to the following Act, which is hereby published for general information:—

No. 8 of 2012: Implementation of the Geneva Conventions Act, 2012.



AIDS HELPLINE: 0800-123-22 Prevention is the cure

*(English text signed by the President)
(Assented to 11 July 2012)*

ACT

To enact the Geneva Conventions and Protocols additional to those Conventions into law; to ensure prevention and punishment of grave breaches and other breaches of the Conventions and Protocols; and to provide for matters connected therewith.

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

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SCHEDULE 6

Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), of 8 June 1977

Definitions

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1. In this Act, unless the context indicates otherwise—

“**Constitution**” means the Constitution of the Republic of South Africa, 1996;

“**Conventions**” means the First Convention, the Second Convention, the Third Convention, the Fourth Convention, Protocol I and Protocol II;

“**court**”—

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(a) means a provincial division of the High Court or a court of similar status; and

(b) in the case of a member of the South African National Defence Force who contravenes or fails to comply with this Act while in service or on duty, includes a military court contemplated in section 1 of the Military Discipline Supplementary Measures Act, 1999 (Act No. 16 of 1999), but excludes an Officer Commanding disciplinary hearing;

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“**First Convention**” means the Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, adopted at Geneva on 12 August 1949, which is set out in Schedule 1 and was signed by the Republic on 12 August 1949 and ratified by the Republic on 31 March 1952;

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“**Fourth Convention**” means the Geneva Convention Relative to the Protection of Civilian Persons in Time of War, adopted at Geneva on 12 August 1949, which is set out in Schedule 4 and was signed by the Republic on 12 August 1949 and ratified by the Republic on 31 March 1952;

“**Minister**” means the Minister of Defence and Military Veterans;

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“**National Director of Public Prosecutions**” means the person contemplated in section 179 (1)(a) of the Constitution and appointed in terms of section 10 of the National Prosecuting Authority Act, 1998 (Act No. 32 of 1998);

“**prisoners’ representative**”, in relation to a particular protected prisoner of war, means the person by whom the functions of prisoners’ representative within the meaning of Article 79 of the Third Convention were exercisable in relation to that prisoner at the camp or place at which that prisoner was, at or last before that time, detained as a prisoner of war;

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“**protected internee**” means a person who is interned in the Republic and who is protected by the Fourth Convention;

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“**protected prisoner of war**” means a person protected by the Third Convention or a person who is protected as a prisoner of war under Protocol I;

“**protecting power**”, in relation to a protected prisoner of war or a protected internee, means the power or organisation which is carrying out, in the interests of the power of which he or she is a national, or of whose forces he or she is, or was at any material time, a member, the duties assigned to protecting powers under the Third Convention or Protocol I, as the case may be;

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“**Protocol I**” means the Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts, adopted at Geneva on 10 June 1977, which is set out in Schedule 5 and was signed by the Republic on 8 June 1977 and ratified by the Republic on 21 November 1995;

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“**Protocol II**” means the Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts, adopted at Geneva on 8 June 1977, which is set out in Schedule 6 and was signed by the Republic on 8 June 1977 and ratified by the Republic on 21 November 1995;

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“**Second Convention**” means the Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea,

adopted at Geneva on 12 August 1949, which is set out in Schedule 2 and was signed by the Republic on 12 August 1949 and ratified by the Republic on 31 March 1952;

“**South African Red Cross Society Act**” means the South African Red Cross Society and Legal Protection of Certain Emblems Act, 2007 (Act No. 10 of 2007); 5

“**Third Convention**” means the Geneva Convention Relative to the Treatment of Prisoners of War, adopted at Geneva on 12 August 1949, which is set out in Schedule 3 and was signed by the Republic on 12 August 1949 and ratified by the Republic on 31 March 1952;

“**this Act**” includes any regulation made in terms of section 19. 10

CHAPTER 1

OBJECTS OF ACT AND ENACTMENT OF CONVENTIONS INTO LAW

Objects of Act

2. The objects of this Act are to—

- (a) enact the Conventions into law as is required by section 231(4) of the Constitution; 15
- (b) ensure that the Republic complies with the Conventions; and
- (c) ensure prevention of, and punishment for, breaches of the Conventions.

Applicable law

3. In addition to the Constitution and the law, any court in the Republic hearing any matter arising from the application of this Act must also consider and, where, appropriate, may apply— 20

- (a) conventional international law;
- (b) customary international law; and
- (c) comparable foreign law. 25

Enactment of Conventions into law

4. (1) Subject to the Constitution and this Act, the Conventions have the force of law in the Republic.

(2) The Minister may by notice in the *Gazette* amend any of the Conventions to reflect any changes made to the Convention in question if those changes are binding on the Republic in terms of section 231 of the Constitution. 30

CHAPTER 2

BREACHES OF CONVENTIONS

Breach of Conventions and penalties

5. (1) Any person who, whether within or outside the Republic, commits a grave breach of the Conventions, is guilty of an offence. 35

(2) For the purposes of subsection (1), “a grave breach” means—

- (a) a grave breach referred to in Article 50 of the First Convention;
- (b) a grave breach referred to in Article 51 of the Second Convention;
- (c) a grave breach referred to in Article 130 of the Third Convention; 40
- (d) a grave breach referred to in Article 147 of the Fourth Convention; or
- (e) a grave breach referred to in Article 11 or 85 of Protocol I.

(3) Any person who within the Republic contravenes or fails to comply with a provision of the Conventions not covered by subsection (2), is guilty of an offence.

(4) Any citizen of the Republic who outside the Republic contravenes or fails to comply with a provision of the Conventions not covered by subsection (2), is guilty of an offence.

(5) A person convicted of an offence contemplated in subsection (1), (3) or (4) is liable to a fine or to imprisonment, including imprisonment for life, or to such imprisonment without the option of a fine or to both a fine and such imprisonment.

Failure to prevent breaches of Conventions

6. (1) A military superior officer is guilty of an offence if— 10

- (a) forces under his or her effective command, authority and control, whether within or outside the borders of the Republic, commit a grave breach contemplated in section 5(1) or commit an offence contemplated in section 5(3) or (4);
- (b) he or she knew, or in the circumstances ought to have reasonably known, that the forces contemplated in paragraph (a) were committing such a grave breach or offence; and
- (c) he or she failed—
 - (i) to exercise effective command, authority and control over the forces contemplated in paragraph (a);
 - (ii) to take all necessary and reasonable measures within his or her power to prevent or repress the commission of any breach or offence contemplated in paragraph (a); or
 - (iii) to submit the commission of the breach or offence contemplated in paragraph (a) to the competent authorities for investigation and prosecution.

(2) Any person, whether within or outside the borders of the Republic, who fails to act when under a duty to do so in order to prevent the commission of a grave breach contemplated in section 5(1) or an offence contemplated in section 5(3) or (4) by any other person, is guilty of an offence.

(3) A military superior officer convicted of an offence in terms of subsection (1) or a person convicted of an offence in terms of subsection (2), is liable to a fine or to imprisonment, including imprisonment for life, or to such imprisonment without the option of a fine or to both a fine and such imprisonment.

(4) For the purposes of this section, a “military superior officer” includes any person—

- (a) acting as a military superior officer; or
- (b) in a superior position, including a civilian position, in relation to those forces.

CHAPTER 3

JURISDICTION AND STATUS

Jurisdiction

7. (1) Any court in the Republic may try a person for any offence under this Act in the same manner as if the offence had been committed in the area of jurisdiction of that court, notwithstanding that the act or omission to which the charge relates was committed outside the Republic.

(2) The Cabinet member responsible for the administration of justice must, in consultation with the Chief Justice of South Africa and after consultation with the National Director of Public Prosecutions, in writing designate an appropriate Court to try a person contemplated in subsection (1).

(3) Whenever this Act is enforced outside the Republic, any finding, sentence, penalty, fine or order made, pronounced or imposed in terms of its provisions is as valid and effectual, and must be carried into effect, as if it had been made, pronounced or imposed in the Republic.

(4) Nothing in this Act must be construed as precluding the prosecution of any person accused of having committed a breach under customary international law before this Act took effect. 5

Determination of status

8. (1) Any person charged with an offence in terms of this Act may apply to the court before which he or she has been arraigned for a declaration that he or she has the status of protected prisoner of war or protected internee. 10

(2) When doubt exists as to whether or not a person charged with an offence in terms of this Act is a protected prisoner of war or a protected internee, the appropriate prosecuting authority may apply to the court before which that person has been arraigned for a declaration that that person does not have the status of protected prisoner of war or protected internee. 15

CHAPTER 4

LEGAL PROCEEDINGS

Notice to protecting power

9. (1) The court before which— 20

(a) a protected prisoner of war is brought to trial for any offence in terms of this Act; or

(b) a protected internee is brought to trial for an offence for which that court has the power to sentence him or her to imprisonment for a period of two years or more, 25

may not proceed with the trial until the court is satisfied that a notice containing the particulars contemplated in subsection (2), in so far as they are known to the prosecutor, has been served not less than three weeks before the commencement of the trial on the protecting power and, if the accused is a protected prisoner of war, on the accused and the prisoners' representative. 30

(2) The particulars referred to in subsection (1) are as follows:

(a) The full name, date of birth and description of the accused, including his or her profession or trade;

(b) if the accused is a protected prisoner of war, his or her rank and force of origin, regimental, personal or serial number; 35

(c) the place of detention, internment or residence of the accused;

(d) the offence with which the accused is charged; and

(e) the court before which the trial is to take place and the time and place appointed for the trial.

(3) For the purposes of subsection (1), a document purporting to be— 40

(a) signed on behalf of the protecting power or by the prisoners' representative or by the accused person, as the case may be; and

(b) an acknowledgement of the receipt by that power, representative or person on a specified day of a notice described therein as a notice under this section,

is, in the absence of evidence to the contrary, sufficient evidence that the notice required by subsection (1) was served on that power, representative or person, as the case may be, on that day. 45

(4) A court that adjourns a trial in order that the requirements of this section could be complied with, may, notwithstanding anything to the contrary contained in any other law, remand the accused person in custody for the period of the adjournment.

Legal representation

10. (1) (a) Subject to subsections (2) and (3), the court before which a person is brought for trial for an offence contemplated in section 5(1), (3) or (4) may not proceed with the trial unless—

- (i) the accused person is represented by a legal practitioner who is qualified to appear before the court; and
- (ii) the court is satisfied that a period of not less than 14 days has elapsed since instructions for the representation of the accused at the trial were first given to the legal practitioner who is representing the accused.

(b) If the court adjourns the trial for the purposes of enabling the requirements of this subsection to be complied with, then, notwithstanding anything to the contrary in any other law, the court may remand the accused person in custody for the period of the adjournment.

(2) Every person contemplated in subsection (1) has the right to legal representation of his or her own choice at his or her own expense, or to be assigned a legal practitioner at state expense when he or she is to appear or to be tried by a court.

(3) Where the accused person is a protected prisoner of war and in the absence of a legal practitioner accepted by the accused as representing him or her, a legal practitioner instructed by or on behalf of the protecting power must, without prejudice to the requirements of subsection (1)(a)(ii), be regarded for the purposes of that subsection as representing the accused person.

(4) Where the court adjourns a trial in terms of subsection (1) by reason that the accused person is not represented by a legal practitioner, the court must direct that a legal practitioner be assigned to watch over the interests of the accused person at any further proceedings, in the absence of a legal practitioner accepted by the accused as representing him or her or instructed in accordance with subsection (3), and a legal practitioner assigned in terms of this subsection must, without prejudice to the requirements of subsection (1)(a)(ii), be regarded for the purposes of that subsection as representing the accused person.

(5) The Legal Aid Act, 1969 (Act No. 22 of 1969), subject to the changes required by the context, applies in relation to the manner in which a legal practitioner is to be assigned to an accused person in terms of this section and in relation to the remuneration to be paid to such legal practitioner on the completion of his or her duties.

Appeals by protected prisoners of war and protected internees

11. (1) (a) Notwithstanding anything to the contrary in any other law contained, a protected prisoner of war or a protected internee who has been convicted and sentenced to imprisonment for a period of two years or more, may give notice of appeal or notice of application for leave to appeal against such conviction or sentence up to a date 10 days after the date on which the protected prisoner of war or protected internee concerned receives notice that the protecting power has been notified of his or her conviction and sentence.

(b) The notice referred to in paragraph (a) must be given—

- (i) in the case of a protected prisoner of war, by an officer of the South African National Defence Force; or
- (ii) in the case of a protected internee, by or on behalf of the head of the correctional centre in which the protected internee is detained.

(2) Notwithstanding anything to the contrary in any other law contained, where, after an appeal against the conviction or sentence by a court of a protected prisoner of war or a protected internee has been determined, the sentence remains or has become a sentence of imprisonment for a period of two years or more, the time allowed within which the protected prisoner of war or protected internee concerned must apply to the court for a certificate authorising an appeal in respect of the conviction or sentence as

confirmed or varied upon the appeal contemplated in subsection (1) must be regarded as continuing to run until a date seven days after the date on which the protected prisoner of war or protected internee concerned receives a notice given by a person contemplated in subsection (1)(b)(i) or (ii), as the case may be, that the protecting power has been notified of the outcome of the decision on appeal. 5

(3) Where subsection (1) or (2) applies in relation to a convicted protected prisoner of war or protected internee, then, unless the court orders otherwise, an order of the court relating to the restitution of property or the payment of compensation to an aggrieved person may not take effect, and a provision of a law relating to the re-vesting of property on conviction may not take effect in relation to the conviction, while an appeal by the convicted protected prisoner of war or protected internee against his or her conviction or sentence is possible. 10

(4) Subsections (1) and (2) do not apply in relation to an appeal against a conviction or sentence, or against the decision of a court upon a previous appeal, if, at the time of the conviction or sentence, or of the decision of the court upon the previous appeal, as the case may be, there is no protecting power. 15

Protected prisoners of war in custody

12. (1) The court before which a protected prisoner of war is brought for trial for any offence—

- (a) may remand that protected prisoner into the custody of the South African National Defence Force; 20
- (b) must remand that protected prisoner into the custody of the South African National Defence Force if that protected prisoner is in custody for a period of longer than three months; or
- (c) must order the protected prisoner to remain in custody of the South African National Defence Force if the prisoner is acquitted in order to ensure that such prisoner does not forfeit his or her rights in terms of the Third Convention, the Fourth Convention or Protocol I. 25

(2) A protected prisoner of war who is in the custody of the South African National Defence Force must be granted the protection of the Third Convention or the Fourth Convention, as the case may be. 30

Reduction of sentence

13. (1) Whenever a protected prisoner of war or a protected internee is convicted of an offence under this Act and is sentenced to imprisonment for a specified term, the period before sentence, if any, during which that protected prisoner of war or protected internee was in custody in connection with that offence, either on remand awaiting trial or during trial, must be deducted from that term. 35

(2) For the purposes of subsection (1), deprivation of liberty of a protected prisoner of war or a protected internee required by his or her status as protected prisoner of war or protected internee must not be deducted from the term contemplated in that subsection. 40

CHAPTER 5

USE AND PROTECTION OF EMBLEMS

Protection of flags, emblems, designations, signs, signals, designs, wordings, identity cards, information cards, insignia and uniforms

14. (1) Subject to Part 3 of the South African Red Cross Society Act, no person may, without the consent of the Minister, use or display for any purpose whatsoever any of the following:

- (a) The “red cross” contemplated in section 1 of the South African Red Cross Society Act;
- (b) the “red crescent” contemplated in section 1 of the South African Red Cross Society Act;
- (c) the emblem in red on, and completely surrounded by, a white ground, that is to say, a lion passing from right to left of, and with its face turned towards, the observer, holding erect in its raised right forepaw a scimitar, with, appearing above the lion’s back, the upper half of the sun shooting forth rays, or the designation “Red Lion and Sun”;
- (d) the emblem of a white or silver cross with vertical and horizontal arms of the same length on, and completely surrounded by, a red ground, being the heraldic emblem of the Swiss Confederation;
- (e) the sign of an equilateral blue triangle on, and completely surrounded by, an orange ground, being the international distinctive sign of civil defence;
- (f) any of the distinctive signals specified in Chapter III of Annex I to Protocol I, being the signals of identification for medical units and transports;
- (g) the sign consisting of a group of three bright orange circles of equal size, placed on the same axis, the distance between each circle being one radius, being the international special sign for works and installations containing dangerous forces;
- (h) the distinctive emblem of protection of cultural property, namely 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);
- (i) a design, wording or signal so nearly resembling any of the emblems, designations, signs or signals specified in paragraph (a), (b), (c), (d), (e), (f), (g) or (h) as to be capable of being mistaken for or understood as referring to one of those emblems, designations, signs or signals, as the case may be; and
- (j) such other flags, emblems, designations, signs, signals, designs, wordings, identity cards, information cards, insignia or uniforms as may be prescribed by regulation by the Minister for the purposes of giving effect to the Conventions.

(2) The Minister must give the consent contemplated in subsection (1) in writing and may only give such consent for the purposes of giving effect to the provisions of this Act, the South African Red Cross Society Act and the Conventions.

(3) Section 8 of the South African Red Cross Society Act applies to the Minister with the changes required by the context in respect of any flag, emblem, designation, sign, signal, design, wording, identity card, information card, insignia or uniform contemplated in subsection (1)(c) to (j).

(4) This section also applies to the use outside the Republic of an emblem, designation, sign, signal, design, wording, identity card, identification cards, insignia or uniform contemplated in subsection (1) on any ship or aircraft registered in the Republic.

Offences and penalties

15. (1) Any person who contravenes or fails to comply with section 14 is guilty of an offence and on conviction liable to a fine or to imprisonment for a period not exceeding five years or to both a fine and such imprisonment.

(2) (a) When an offence contemplated in subsection (1) has been committed for which any corporate body is or was liable to prosecution, any person who was, at the time of the commission of the offence, a director or member of the management of the corporate body and who knew of or could have prevented the commission of the offence, is guilty of the said offence, either jointly with the corporate body or apart therefrom, and on conviction liable to the punishment provided for in that subsection.

(b) Section 332 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), with the exception of subsections (2)(c), (5), (7), (8) and (9) thereof, applies with the changes required by the context in respect of any prosecution of a corporate body or director or member of the management thereof for an offence contemplated in this section.

Seizure of certain article or thing

16. The State may seize any article or thing used in contravention of this Act, and Chapter 2 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), applies with the changes required by the context in respect of any such article or thing.

Use of Red Cross by South African National Defence Force

17. (1) Subject to the direction of the Minister, the Military Health Services of the South African National Defence Force must, both in peacetime and in time of armed conflict, use the Red Cross to mark its medical personnel, medical units and transports on the ground, at sea and in the air, and all other equipment in its use.

(2) Personnel of the Military Health Services and Religious Personnel of the South African National Defence Force must wear armlets and carry identity cards issued by South African National Defence Force displaying the Red Cross.

(3) The Minister may request the National Society referred to in section 2 of the South African Red Cross Society Act to place medical personnel and resources at the disposal of the Military Health Services of the South African National Defence Force.

(4) The medical personnel and resources contemplated in subsection (3) are subject to military laws and regulations and may be authorised by the Minister of Defence to display the Red Cross as a protective device.

International Committee of the Red Cross and International Federation of the Red Cross and Red Crescent Societies

18. (1) The International Committee of the Red Cross and the International Federation of the Red Cross and Red Crescent Societies may make use of the emblems contemplated in section 14(1)(a) and (b) at any time and for all their activities.

(2) (a) The International Committee of the Red Cross and the International Federation of the Red Cross and Red Crescent Societies, and their duly authorised personnel, may make use of the red crystal to facilitate their work if there is sufficient reason for such use.

(b) For the purposes of paragraph (a) the red crystal means the emblem in red on, and completely surrounded by, a white ground, that is to say, a red frame in the shape of a square on edge (whether or not incorporating within its centre another emblem or sign

or combination thereof in accordance with Article 3, paragraph 1 of the Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Adoption of an Additional Distinctive Emblem (Protocol III), done at Geneva on 8 December 2005), or the designation “Red Crystal”, or the designation “third Protocol emblem”.

CHAPTER 6

5

GENERAL PROVISIONS

Regulations

19. The Minister may make regulations regarding any ancillary or incidental administrative or procedural matter that it is necessary to prescribe for the proper implementation or administration of this Act.

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Effect of Act on Implementation of the Rome Statute of the International Criminal Court Act, 2002

20. The provisions of this Act must not be construed as limiting, amending, repealing or otherwise altering any provision of the Implementation of the Rome Statute of the International Criminal Court Act, 2002 (Act No. 27 of 2002), or as exempting any person from any duty or obligation imposed by that Act or prohibiting any person from complying with any provision of that Act.

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Short title and commencement

21. This Act is called the Implementation of the Geneva Conventions Act, 2012, and comes into operation on a date fixed by the President by proclamation in the *Gazette*.

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SCHEDULES

(Section 1)

SCHEDULE 1

GENEVA CONVENTION

FOR THE AMELIORATION OF THE CONDITION OF THE WOUNDED AND SICK IN ARMED FORCES IN THE FIELD OF 12 AUGUST 1949 5

The undersigned Plenipotentiaries of the Governments represented at the Diplomatic Conference held at Geneva from April 21 to August 12, 1949, for the purpose of revising the Geneva Convention for the Relief of the Wounded and Sick in Armies in the Field of July 27, 1929, have agreed as follows: 10

CHAPTER I

GENERAL PROVISIONS

Article 1

The High Contracting Parties undertake to respect and to ensure respect for the present Convention in all circumstances. 15

Article 2

In addition to the provisions which shall be implemented in peacetime, the present Convention shall apply to all cases 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 recognised by one of them. 20

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.

Although one of the Powers in conflict may not be a party to the present Convention, the Powers who are parties thereto shall 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 accepts and applies the provisions thereof. 25

Article 3

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: 30

- 1) Persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed *hors de combat* 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. 35

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:

- a) violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture;
- b) taking of hostages; 40
- c) outrages upon personal dignity, in particular humiliating and degrading treatment;
- d) the passing of sentences and the carrying out of executions without previous judgement pronounced by a regularly constituted court, affording all the judicial guarantees which are recognised as indispensable by civilized peoples. 45

- 2) The wounded and sick shall be collected and cared for.

An impartial humanitarian body, such as the International Committee of the Red Cross, may offer its services to the Parties to the conflict.

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 present Convention.

The application of the preceding provisions shall not affect the legal status of the Parties to the conflict.

Article 4

5

Neutral Powers shall apply by analogy the provisions of the present Convention to the wounded and sick, and to members of the medical personnel and to chaplains of the armed forces of the Parties to the conflict, received or interned in their territory, as well as to dead persons found.

Article 5

10

For the protected persons who have fallen into the hands of the enemy, the present Convention shall apply until their final repatriation.

Article 6

In addition to the agreements expressly provided for in Articles 10, 15, 23, 28, 31, 36, 37 and 52, the High Contracting Parties may conclude other special agreements for all matters concerning which they may deem it suitable to make separate provision. No special agreement shall adversely affect the situation of the wounded and sick, of members of the medical personnel or of chaplains, as defined by the present Convention, nor restrict the rights which it confers upon them.

Wounded and sick, as well as medical personnel and chaplains, shall continue to have the benefit of such agreements as long as the Convention is applicable to them, except where express provisions to the contrary are contained in the aforesaid or in subsequent agreements, or where more favourable measures have been taken with regard to them by one or other of the Parties to the conflict.

Article 7

25

Wounded and sick, as well as members of the medical personnel and chaplains, may in no circumstances renounce in part or in entirety the rights secured to them by the present Convention, and by the special agreements referred to in the foregoing Article, if such there be.

Article 8

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The present Convention shall be applied with the co-operation and under the scrutiny of the Protecting Powers whose duty it is to safeguard the interests of the Parties to the conflict. For this purpose, the Protecting Powers may appoint, apart from their diplomatic or consular staff, delegates from amongst their own nationals or the nationals of other neutral Powers. The said delegates shall be subject to the approval of the Power with which they are to carry out their duties.

The Parties to the conflict shall facilitate, to the greatest extent possible, the task of the representatives or delegates of the Protecting Powers.

The representatives or delegates of the Protecting Powers shall not in any case exceed their mission under the present Convention. They shall, in particular, take account of the imperative necessities of security of the State wherein they carry out their duties. Their activities shall only be restricted as an exceptional and temporary measure when this is rendered necessary by imperative military necessities.

Article 9

45

The provisions of the present Convention constitute no obstacle to the humanitarian activities which the International Committee of the Red Cross or any other impartial humanitarian organisation may, subject to the consent of the Parties to the conflict concerned, undertake for the protection of wounded and sick, medical personnel and chaplains, and for their relief.

Article 10

The High Contracting Parties may at any time agree to entrust to an organization which offers all guarantees of impartiality and efficacy the duties incumbent on the Protecting Powers by virtue of the present Convention.

When wounded and sick, or medical personnel and chaplains do not benefit or cease to benefit, no matter for what reason, by the activities of a Protecting Power or of an organization provided for in the first paragraph above, the Detaining Power shall request a neutral State, or such an organization, to undertake the functions performed under the present Convention by a Protecting Power designated by the Parties to a conflict. 5

If protection cannot be arranged accordingly, the Detaining Power shall request or shall accept, subject to the provisions of this Article, the offer of the services of a humanitarian organization, such as the International Committee of the Red Cross, to assume the humanitarian functions performed by Protecting Powers under the present Convention. 10

Any neutral Power, or any organization invited by the Power concerned or offering itself for these purposes, shall be required to act with a sense of responsibility towards the Party to the conflict on which persons protected by the present Convention depend, and shall be required to furnish sufficient assurances that it is in a position to undertake the appropriate functions and to discharge them impartially. 15

No derogation from the preceding provisions shall be made by special agreements between Powers one of which is restricted, even temporarily, in its freedom to negotiate with the other Power or its allies by reason of military events, more particularly where the whole, or a substantial part, of the territory of the said Power is occupied. 20

Whenever in the present Convention mention is made of a Protecting Power, such mention also applies to substitute organizations in the sense of the present Article. 25

Article 11

In cases where they deem it advisable in the interest of protected persons, particularly in cases of disagreement between the Parties to the conflict as to the application or interpretation of the provisions of the present Convention, the Protecting Powers shall lend their good offices with a view to settling the disagreement. 30

For this purpose, each of the Protecting Powers may, either at the invitation of one Party or on its own initiative, propose to the Parties to the conflict a meeting of their representatives, in particular of the authorities responsible for the wounded and sick, members of medical personnel and chaplains, possibly on neutral territory suitably chosen. The Parties to the conflict shall be bound to give effect to the proposals made to them for this purpose. The Protecting Powers may, if necessary, propose for approval by the Parties to the conflict a person belonging to a neutral Power or delegated by the International Committee of the Red Cross, who shall be invited to take part in such a meeting. 35

CHAPTER II WOUNDED AND SICK 40

Article 12

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 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. 45 50

Only urgent medical reasons will authorize priority in the order of treatment to be administered.

Women shall be treated with all consideration due to their sex.

The Party to the conflict which is compelled to abandon wounded or sick to the enemy shall, as far as military considerations permit, leave with them a part of its medical personnel and material to assist in their care. 5

Article 13

The Present Convention shall apply to the wounded and sick belonging to the following categories:

- 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. 10
- 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: 15
 - a) that of being commanded by a person responsible for his subordinates;
 - b) that of having a fixed distinctive sign recognizable at a distance;
 - c) that of carrying arms openly;
 - d) that of conducting their operations in accordance with the laws and customs of war. 20
- 3) Members of regular armed forces who profess allegiance to a Government or an authority not recognised by the Detaining Power.
- 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. 25
- 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. 30
- 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. 35

Article 14

Subject to the provisions of Article 12, the wounded and sick of a belligerent who fall into enemy hands shall be prisoners of war, and the provisions of international law concerning prisoners of war shall apply to them. 40

Article 15

At all times, and particularly after an engagement, Parties to the conflict shall, without delay, take all possible measures to search for and collect the wounded and sick, to protect them against pillage and ill-treatment, to ensure their adequate care, and to search for the dead and prevent their being despoiled. 45

Whenever circumstances permit, an armistice or a suspension of fire shall be arranged, or local arrangements made, to permit the removal, exchange and transport of the wounded left on the battlefield.

Likewise, local arrangements may be concluded between Parties to the conflict for the removal or exchange of wounded and sick from a besieged or encircled area, and for the passage of medical and religious personnel and equipment on their way to that area.

Article 16

Parties to the conflict shall record as soon as possible, in respect of each wounded, sick or dead person of the adverse Party falling into their hands, any particulars which may assist in his identification. 5

These records should if possible include:

- a) designation of the Power on which he depends;
- b) army, regimental, personal or serial number; 10
- c) surname;
- d) first name or names;
- e) date of birth;
- f) any other particulars shown on his identity card or disc;
- g) date and place of capture or death; 15
- h) particulars concerning wounds or illness, or cause of death.

As soon as possible the above mentioned information shall be forwarded to the Information Bureau described in Article 122 of the Geneva Convention relative to the Treatment of Prisoners of War of August 12, 1949, which shall transmit this information to the Power on which these persons depend through the intermediary of the Protecting Power and of the Central Prisoners of War Agency. 20

Parties to the conflict shall prepare and forward to each other through the same bureau, certificates of death or duly authenticated lists of the dead. They shall likewise collect and forward through the same bureau one half of a double identity disc, last wills or other documents of importance to the next of kin, money and in general all articles of an intrinsic or sentimental value, which are found on the dead. These articles, together with unidentified articles, shall be sent in sealed packets, accompanied by statements giving all particulars necessary for the identification of the deceased owners, as well as by a complete list of the contents of the parcel. 25

Article 17

Parties to the conflict shall ensure that burial or cremation of the dead, carried out individually as far as circumstances permit, is preceded by a careful examination, if possible by a medical examination, of the bodies, with a view to confirming death, establishing identity and enabling a report to be made. One half of the double identity disc, or the identity disc itself if it is a single disc, should remain on the body. 30 35

Bodies shall not be cremated except for imperative reasons of hygiene or for motives based on the religion of the deceased. In case of cremation, the circumstances and reasons for cremation shall be stated in detail in the death certificate or on the authenticated list of the dead.

They shall further ensure that the dead are honourably interred, if possible according to the rites of the religion to which they belonged, that their graves are respected, grouped if possible according to the nationality of the deceased, properly maintained and marked so that they may always be found. For this purpose, they shall organize at the commencement of hostilities an Official Graves Registration Service, to allow subsequent exhumations and to ensure the identification of bodies, whatever the site of the graves, and the possible transportation to the home country. These provisions shall likewise apply to the ashes, which shall be kept by the Graves Registration Service until proper disposal thereof in accordance with the wishes of the home country. 40 45

As soon as circumstances permit, and at latest at the end of hostilities, these Services shall exchange, through the Information Bureau mentioned in the second paragraph of Article 16, lists showing the exact location and markings of the graves, together with particulars of the dead interred therein. 50

Article 18

The military authorities may appeal to the charity of the inhabitants voluntarily to collect and care for, under their direction, the wounded and sick, granting persons who have responded to this appeal the necessary protection and facilities. Should the adverse Party take or retake control of the area, he shall likewise grant these persons the same protection and the same facilities. 5

The military authorities shall permit the inhabitants and relief societies, even in invaded or occupied areas, spontaneously to collect and care for wounded or sick of whatever nationality. The civilian population shall respect these wounded and sick, and in particular abstain from offering them violence. 10

No one may ever be molested or convicted for having nursed the wounded or sick.

The provisions of the present Article do not relieve the occupying Power of its obligation to give both physical and moral care to the wounded and sick.

CHAPTER III

MEDICAL UNITS AND ESTABLISHMENTS 15

Article 19

Fixed establishments and mobile medical units of the Medical Service may in no circumstances be attacked, but shall at all times be respected and protected by the Parties to the conflict. Should they fall into the hands of the adverse Party, their personnel shall be free to pursue their duties, as long as the capturing Power has not itself ensured the necessary care of the wounded and sick found in such establishments and units. 20

The responsible authorities shall ensure that the said medical establishments and units are, as far as possible, situated in such a manner that attacks against military objectives cannot imperil their safety.

Article 20

Hospital ships entitled to the protection of the Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea of August 12, 1949, shall not be attacked from the land. 25

Article 21

The protection to which fixed establishments and mobile medical units of the Medical Service are entitled shall not cease unless they are used to commit, outside their humanitarian duties, acts harmful to the enemy. Protection may, however, cease only after a due warning has been given, naming, in all appropriate cases, a reasonable time limit, and after such warning has remained unheeded. 30

Article 22

The following conditions shall not be considered as depriving a medical unit or establishment of the protection guaranteed by Article 19: 35

1. That the personnel of the unit or establishment are armed, and that they use the arms in their own defence, or in that of the wounded and sick in their charge.
2. That in the absence of armed orderlies, the unit or establishment is protected by a picket or by sentries or by an escort. 40
3. That small arms and ammunition taken from the wounded and sick and not yet handed to the proper service, are found in the unit or establishment.
4. That personnel and material of the veterinary service are found in the unit or establishment, without forming an integral part thereof. 45
5. That the humanitarian activities of medical units and establishments or of their personnel extend to the care of civilian wounded or sick.

Article 23

In time of peace, the High Contracting Parties and, after the outbreak of hostilities, the Parties thereto, may establish in their own territory and, if the need arises, in occupied areas, hospital zones and localities so organized as to protect the wounded and sick from the effects of war, as well as the personnel entrusted with the organization and administration of these zones and localities and with the care of the persons therein assembled. 5

Upon the outbreak and during the course of hostilities, the Parties concerned may conclude agreements on mutual recognition of the hospital zones and localities they have created. They may for this purpose implement the provisions of the Draft Agreement annexed to the present Convention, with such amendments as they may consider necessary. 10

The Protecting Powers and the International Committee of the Red Cross are invited to lend their good offices in order to facilitate the institution and recognition of these hospital zones and localities. 15

CHAPTER IV

Personnel

Article 24

Medical personnel exclusively engaged in the search for, or the collection, transport or treatment of the wounded or sick, or in the prevention of disease, staff exclusively engaged in the administration of medical units and establishments, as well as chaplains attached to the armed forces, shall be respected and protected in all circumstances. 20

Article 25

Members of the armed forces specially trained for employment, should the need arise, as hospital orderlies, nurses or auxiliary stretcher-bearers, in the search for or the collection, transport or treatment of the wounded and sick shall likewise be respected and protected if they are carrying out these duties at the time when they come into contact with the enemy or fall into his hands. 25

Article 26

The staff of National Red Cross Societies and that of other Voluntary Aid Societies, duly recognized and authorized by their Governments, who may be employed on the same duties as the personnel named in Article 24, are placed on the same footing as the personnel named in the said Article, provided that the staff of such societies are subject to military laws and regulations. 30

Each High Contracting Party shall notify to the other, either in time of peace or at the commencement of or during hostilities, but in any case before actually employing them, the names of the societies which it has authorized, under its responsibility, to render assistance to the regular medical service of its armed forces. 35

Article 27

A recognized Society of a neutral country can only lend the assistance of its medical personnel and units to a Party to the conflict with the previous consent of its own Government and the authorization of the Party to the conflict concerned. That personnel and those units shall be placed under the control of that Party to the conflict. 40

The neutral Government shall notify this consent to the adversary of the State which accepts such assistance. The Party to the conflict who accepts such assistance is bound to notify the adverse Party thereof before making any use of it. 45

In no circumstances shall this assistance be considered as interference in the conflict.

The members of the personnel named in the first paragraph shall be duly furnished with the identity cards provided for in Article 40 before leaving the neutral country to which they belong. 50

Article 28

Personnel designated in Articles 24 and 26 who fall into the hands of the adverse Party, shall be retained only in so far as the state of health, the spiritual needs and the number of prisoners of war require.

Personnel thus retained shall not be deemed prisoners of war. Nevertheless they shall at least benefit by all the provisions of the Geneva Convention relative to the Treatment of Prisoners of War of August 12, 1949. Within the framework of the military laws and regulations of the Detaining Power, and under the authority of its competent service, they shall continue to carry out, in accordance with their professional ethics, their medical and spiritual duties on behalf of prisoners of war, preferably those of the armed forces to which they themselves belong. They shall further enjoy the following facilities for carrying out their medical or spiritual duties:

- a) They shall be authorized to visit periodically the prisoners of war in labour units or hospitals outside the camp. The Detaining Power shall put at their disposal the means of transport required.
- b) In each camp the senior medical officer of the highest rank shall be responsible to the military authorities of the camp for the professional activity of the retained medical personnel. For this purpose, from the outbreak of hostilities, the Parties to the conflict shall agree regarding the corresponding seniority of the ranks of their medical personnel, including those of the societies designated in Article 26. In all questions arising out of their duties, this medical officer, and the chaplains, shall have direct access to the military and medical authorities of the camp who shall grant them the facilities they may require for correspondence relating to these questions.
- c) Although retained personnel in a camp shall be subject to its internal discipline, they shall not, however, be required to perform any work outside their medical or religious duties.

During hostilities the Parties to the conflict shall make arrangements for relieving where possible retained personnel, and shall settle the procedure of such relief.

None of the preceding provisions shall relieve the Detaining Power of the obligations imposed upon it with regard to the medical and spiritual welfare of the prisoners of war.

Article 29

Members of the personnel designated in Article 25 who have fallen into the hands of the enemy, shall be prisoners of war, but shall be employed on their medical duties in so far as the need arises.

Article 30

Personnel whose retention is not indispensable by virtue of the provisions of Article 28 shall be returned to the Party to the conflict to whom they belong, as soon as a road is open for their return and military requirements permit.

Pending their return, they shall not be deemed prisoners of war. Nevertheless they shall at least benefit by all the provisions of the Geneva Convention relative to the Treatment of Prisoners of War of August 12, 1949. They shall continue to fulfil their duties under the orders of the adverse Party and shall preferably be engaged in the care of the wounded and sick of the Party to the conflict to which they themselves belong.

On their departure, they shall take with them the effects, personal belongings, valuables and instruments belonging to them.

Article 31

The selection of personnel for return under Article 30 shall be made irrespective of any consideration of race, religion or political opinion, but preferably according to the chronological order of their capture and their state of health.

As from the outbreak of hostilities, Parties to the conflict may determine by special agreement the percentage of personnel to be retained, in proportion to the number of prisoners and the distribution of the said personnel in the camps.

Article 32

Persons designated in Article 27 who have fallen into the hands of the adverse Party may not be detained.

Unless otherwise agreed, they shall have permission to return to their country, or if this is not possible, to the territory of the Party to the conflict in whose service they were, as soon as a route for their return is open and military considerations permit. 5

Pending their release, they shall continue their work under the direction of the adverse Party; they shall preferably be engaged in the care of the wounded and sick of the Party to the conflict in whose service they were.

On their departure, they shall take with them their effects, personal articles and valuables and the instruments, arms and if possible the means of transport belonging to them. 10

The Parties to the conflict shall secure to this personnel, while in their power, the same food, lodging, allowances and pay as are granted to the corresponding personnel of their armed forces. The food shall in any case be sufficient as regards quantity, quality and variety to keep the said personnel in a normal state of health. 15

CHAPTER V

BUILDINGS AND MATERIAL

Article 33

The material of mobile medical units of the armed forces which fall into the hands of the enemy, shall be reserved for the care of wounded and sick. 20

The buildings, material and stores of fixed medical establishments of the armed forces shall remain subject to the laws of war, but may not be diverted from their purpose as long as they are required for the care of wounded and sick. Nevertheless, the commanders of forces in the field may make use of them, in case of urgent military necessity, provided that they make previous arrangements for the welfare of the wounded and sick who are nursed in them. 25

The material and stores defined in the present Article shall not be intentionally destroyed.

Article 34

The real and personal property of aid societies which are admitted to the privileges of the Convention shall be regarded as private property. 30

The right of requisition recognised for belligerents by the laws and customs of war shall not be exercised except in case of urgent necessity, and only after the welfare of the wounded and sick has been ensured.

CHAPTER VI

MEDICAL TRANSPORTS

Article 35

Transports of wounded and sick or of medical equipment shall be respected and protected in the same way as mobile medical units.

Should such transports or vehicles fall into the hands of the adverse Party, they shall be subject to the laws of war, on condition that the Party to the conflict who captures them shall in all cases ensure the care of the wounded and sick they contain. 40

The civilian personnel and all means of transport obtained by requisition shall be subject to the general rules of international law.

Article 36

Medical aircraft, that is to say, aircraft exclusively employed for the removal of wounded and sick and for the transport of medical personnel and equipment, shall not be 45

attacked, but shall be respected by the belligerents, while flying at heights, times and on routes specifically agreed upon between the belligerents concerned.

They shall bear, clearly marked, the distinctive emblem prescribed in Article 38, together with their national colours on their lower, upper and lateral surfaces. They shall be provided with any other markings or means of identification that may be agreed upon between the belligerents upon the outbreak or during the course of hostilities. 5

Unless agreed otherwise, flights over enemy or enemy-occupied territory are prohibited.

Medical aircraft shall obey every summons to land. In the event of a landing thus imposed, the aircraft with its occupants may continue its flight after examination, if any.

In the event of an involuntary landing in enemy or enemy-occupied territory, the wounded and sick, as well as the crew of the aircraft shall be prisoners of war. The medical personnel shall be treated according to Article 24 and the Articles following. 10

Article 37

Subject to the provisions of the second paragraph, medical aircraft of Parties to the conflict may fly over the territory of neutral Powers, land on it in case of necessity, or use it as a port of call. They shall give the neutral Powers previous notice of their passage over the said territory and obey all summons to alight, on land or water. They will be immune from attack only when flying on routes, at heights and at times specifically agreed upon between the Parties to the conflict and the neutral Power concerned. 15

The neutral Powers may, however, place conditions or restrictions on the passage or landing of medical aircraft on their territory. Such possible conditions or restrictions shall be applied equally to all Parties to the conflict. 20

Unless agreed otherwise between the neutral Power and the Parties to the conflict, the wounded and sick who are disembarked, with the consent of the local authorities, on neutral territory by medical aircraft, shall be detained by the neutral Power, where so required by international law, in such a manner that they cannot again take part in operations of war. The cost of their accommodation and internment shall be borne by the Power on which they depend. 25

CHAPTER VII

THE DISTINCTIVE EMBLEM 30

Article 38

As a compliment to Switzerland, the heraldic emblem of the red cross on a white ground, formed by reversing the Federal colours, is retained as the emblem and distinctive sign of the Medical Service of armed forces.

Nevertheless, in the case of countries which already use as emblem, in place of the red cross, the red crescent or the red lion and sun on a white ground, those emblems are also recognised by the terms of the present Convention.

Article 39

Under the direction of the competent military authority, the emblem shall be displayed on the flags, armlets and on all equipment employed in the Medical Service. 40

Article 40

The personnel designated in Article 24 and in Articles 26 and 27 shall wear, affixed to the left arm, a water-resistant armlet bearing the distinctive emblem, issued and stamped by the military authority.

Such personnel, in addition to wearing the identity disc mentioned in Article 16, shall also carry a special identity card bearing the distinctive emblem. This card shall be water-resistant and of such size that it can be carried in the pocket. It shall be worded in the national language, shall mention at least the surname and first names, the date of birth, the rank and the service number of the bearer, and shall state in what capacity he 45

is entitled to the protection of the present Convention. The card shall bear the photograph of the owner and also either his signature or his finger-prints or both. It shall be embossed with the stamp of the military authority.

The identity card shall be uniform throughout the same armed forces and, as far as possible, of a similar type in the armed forces of the High Contracting Parties. The Parties to the conflict may be guided by the model which is annexed, by way of example, to the present Convention. They shall inform each other, at the outbreak of hostilities, of the model they are using. Identity cards should be made out, if possible, at least in duplicate, one copy being kept by the home country. 5

In no circumstances may the said personnel be deprived of their insignia or identity cards nor of the right to wear the armlet. In case of loss, they shall be entitled to receive duplicates of the cards and to have the insignia replaced. 10

Article 41

The personnel designated in Article 25 shall wear, but only while carrying out medical duties, a white armlet bearing in its centre the distinctive sign in miniature; the armlet shall be issued and stamped by the military authority. 15

Military identity documents to be carried by this type of personnel shall specify what special training they have received, the temporary character of the duties they are engaged upon, and their authority for wearing the armlet.

Article 42

The distinctive flag of the Convention shall be hoisted only over such medical units and establishments as are entitled to be respected under the Convention, and only with the consent of the military authorities. 20

In mobile units, as in fixed establishments, it may be accompanied by the national flag of the Party to the conflict to which the unit or establishment belongs. 25

Nevertheless, medical units which have fallen into the hands of the enemy shall not fly any flag other than that of the Convention.

Parties to the conflict shall take the necessary steps, in so far as military considerations permit, to make the distinctive emblems indicating medical units and establishments clearly visible to the enemy land, air or naval forces, in order to obviate the possibility of any hostile action. 30

Article 43

The medical units belonging to neutral countries, which may have been authorized to lend their services to a belligerent under the conditions laid down in Article 27, shall fly, along with the flag of the Convention, the national flag of that belligerent, wherever the latter makes use of the faculty conferred on him by Article 42. 35

Subject to orders to the contrary by the responsible military authorities, they may on all occasions fly their national flag, even if they fall into the hands of the adverse Party.

Article 44

With the exception of the cases mentioned in the following paragraphs of the present Article, the emblem of the red cross on a white ground and the words "Red Cross" or "Geneva Cross" may not be employed, either in time of peace or in time of war, except to indicate or to protect the medical units and establishments, the personnel and material protected by the present Convention and other Conventions dealing with similar matters. The same shall apply to the emblems mentioned in Article 38, second paragraph, in respect of the countries which use them. The National Red Cross Societies and other societies designated in Article 26 shall have the right to use the distinctive emblem conferring the protection of the Convention only within the framework of the present paragraph. 40 45

Furthermore, National Red Cross (Red Crescent, Red Lion and Sun) Societies may, in time of peace, in accordance with their national legislation, make use of the name and 50

emblem of the Red Cross for their other activities which are in conformity with the principles laid down by the International Red Cross Conferences. When those activities are carried out in time of war, the conditions for the use of the emblem shall be such that it cannot be considered as conferring the protection of the Convention; the emblem shall be comparatively small in size and may not be placed on armlets or on the roofs of buildings. 5

The international Red Cross organizations and their duly authorized personnel shall be permitted to make use, at all times, of the emblem of the red cross on a white ground.

As an exceptional measure, in conformity with national legislation and with the express permission of one of the National Red Cross (Red Crescent, Red Lion and Sun) Societies, the emblem of the Convention may be employed in time of peace to identify vehicles used as ambulances and to mark the position of aid stations exclusively assigned to the purpose of giving free treatment to the wounded or sick. 10

CHAPTER VIII **EXECUTION OF THE CONVENTION** 15

Article 45

Each Party to the conflict, acting through its commanders-in-chief, shall ensure the detailed execution of the preceding Articles, and provide for unforeseen cases, in conformity with the general principles of the present Convention.

Article 46 20

Reprisals against the wounded, sick, personnel, buildings or equipment protected by the Convention are prohibited.

Article 47

The High Contracting Parties undertake, in time of peace as in time of war, to disseminate the text of the present Convention as widely as possible in their respective countries, and, in particular, to include the study thereof in their programmes of military and, if possible, civil instruction, so that the principles thereof may become known to the entire population, in particular to the armed fighting forces, the medical personnel and the chaplains. 25

Article 48 30

The High Contracting Parties shall communicate to one another through the Swiss Federal Council and, during hostilities, through the Protecting Powers, the official translations of the present Convention, as well as the laws and regulations which they may adopt to ensure the application thereof.

CHAPTER IX **REPRESSION OF ABUSES AND INFRACTIONS** 35

Article 49

The High Contracting Parties undertake to enact any legislation necessary to provide effective penal sanctions for persons committing, or ordering to be committed, any of the grave breaches of the present Convention defined in the following Article. 40

Each High Contracting Party shall be under the obligation to search for persons alleged to have committed, or to have ordered to be committed, such grave breaches, and shall bring such persons, regardless of their nationality, before its own courts. It may also, if it prefers, and in accordance with the provisions of its own legislation, hand such persons over for trial to another High Contracting Party concerned, provided such High Contracting Party has made out a *prima facie* case. 45

Each High Contracting Party shall take measures necessary for the suppression of all acts contrary to the provisions of the present Convention other than the grave breaches defined in the following Article.

In all circumstances, the accused persons shall benefit by safeguards of proper trial and defence, which shall not be less favourable than those provided by Article 105 and those following of the Geneva Convention relative to the Treatment of Prisoners of War of August 12, 1949.

Article 50

5

Grave breaches to which the preceding Article relates shall be those involving any of the following acts, if committed against persons or property protected by the Convention: wilful killing, torture or inhuman treatment, including biological experiments, wilfully causing great suffering or serious injury to body or health, and extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly. 10

Article 51

No High Contracting Party shall be allowed to absolve itself or any other High Contracting Party of any liability incurred by itself or by another High Contracting Party in respect of breaches referred to in the preceding Article. 15

Article 52

At the request of a Party to the conflict, an enquiry shall be instituted, in a manner to be decided between the interested Parties, concerning any alleged violation of the Convention.

If agreement has not been reached concerning the procedure for the enquiry, the Parties should agree on the choice of an umpire who will decide upon the procedure to be followed. 20

Once the violation has been established, the Parties to the conflict shall put an end to it and shall repress it with the least possible delay.

Article 53

25

The use by individuals, societies, firms or companies either public or private, other than those entitled thereto under the present Convention, of the emblem or the designation "Red Cross" or "Geneva Cross", or any sign or designation constituting an imitation thereof, whatever the object of such use, irrespective of the date of its adoption, shall be prohibited at all times. 30

By reason of the tribute paid to Switzerland by the adoption of the reversed Federal colours, and of the confusion which may arise between the arms of Switzerland and the distinctive emblem of the Convention, the use by private individuals, societies or firms, of the arms of the Swiss Confederation, or of marks constituting an imitation thereof, whether as trademarks or commercial marks, or as parts of such marks, or for a purpose contrary to commercial honesty, or in circumstances capable of wounding Swiss national sentiment, shall be prohibited at all times. 35

Nevertheless, such High Contracting Parties as were not party to the Geneva Convention of July 27, 1929, may grant to prior users of the emblems, designations, signs or marks designated in the first paragraph, a time limit not to exceed three years from the coming into force of the present Convention to discontinue such use, provided that the said use shall not be such as would appear, in time of war, to confer the protection of the Convention. 40

The prohibition laid down in the first paragraph of the present Article shall also apply, without effect on any rights acquired through prior use, to the emblems and marks mentioned in the second paragraph of Article 38. 45

Article 54

The High Contracting Parties shall, if their legislation is not already adequate, take measures necessary for the prevention and repression, at all times, of the abuses referred to under Article 53 50

FINAL PROVISIONS

Article 55

The present Convention is established in English and in French. Both texts are equally authentic.

The Swiss Federal Council shall arrange for official translations of the Convention to be made in the Russian and Spanish languages. 5

Article 56

The present Convention, which bears the date of this day, is open to signature until February 12, 1950, in the name of the Powers represented at the Conference which opened at Geneva on April 21, 1949; furthermore, by Powers not represented at that Conference but which are Parties to the Geneva Conventions of 1864, 1906 or 1929 for the Relief of the Wounded and Sick in Armies in the Field. 10

Article 57

The present Convention shall be ratified as soon as possible and the ratifications shall be deposited at Berne. 15

A record shall be drawn up of the deposit of each instrument of ratification and certified copies of this record shall be transmitted by the Swiss Federal Council to all the Powers in whose name the Convention has been signed, or whose accession has been notified.

Article 58

The present Convention shall come into force six months after not less than two instruments of ratification have been deposited. 20

Thereafter, it shall come into force for each High Contracting Party six months after the deposit of the instrument of ratification.

Article 59

The present Convention replaces the Conventions of August 22, 1864, July 6, 1906, and July 27, 1929, in relations between the High Contracting Parties. 25

Article 60

From the date of its coming into force, it shall be open to any Power in whose name the present Convention has not been signed, to accede to this Convention.

Article 61

Accessions shall be notified in writing to the Swiss Federal Council, and shall take effect six months after the date on which they are received. 30

The Swiss Federal Council shall communicate the accessions to all the Powers in whose name the Convention has been signed, or whose accession has been notified.

Article 62

The situations provided for in Articles 2 and 3 shall give immediate effect to ratifications deposited and accessions notified by the Parties to the conflict before or after the beginning of hostilities or occupation. The Swiss Federal Council shall communicate by the quickest method any ratifications or accessions received from Parties to the conflict. 35

Article 63

Each of the High Contracting Parties shall be at liberty to denounce the present Convention. 40

The denunciation shall be notified in writing to the Swiss Federal Council, which shall transmit it to the Governments of all the High Contracting Parties.

The denunciation shall take effect one year after the notification thereof has been made to the Swiss Federal Council. However, a denunciation of which notification has been made at a time when the denouncing Power is involved in a conflict shall not take effect 45

until peace has been concluded, and until after operations connected with release and repatriation of the persons protected by the present Convention have been terminated.

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. 5

Article 64

The Swiss Federal Council shall register the present Convention with the Secretariat of the United Nations. The Swiss Federal Council shall also inform the Secretariat of the United Nations of all ratifications, accessions and denunciations received by it with respect to the present Convention. 10

IN WITNESS WHEREOF the undersigned, having deposited their respective full powers, have signed the present Convention.

DONE at Geneva this twelfth day of August 1949, in the English and French languages. 15
The original shall be deposited in the archives of the Swiss Confederation. The Swiss Federal Council shall transmit certified copies thereof to each of the signatory and acceding States.

ANNEX I

DRAFT AGREEMENT RELATING TO HOSPITAL ZONES AND LOCALITIES

Article 1

Hospital zones shall be strictly observed for the persons named in Article 23 of the Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in the Armed Forces in the Field of August 12, 1949, and for the personnel entrusted with the organization and administration of these zones and localities, and with the care of the persons therein assembled. 5

Nevertheless, persons whose permanent residence is within such zones shall have the right to stay there. 10

Article 2

No persons residing, in whatever capacity, in a hospital zone shall perform any work, either within or without the zone, directly connected with military operations or the production of war material.

Article 3

The Power establishing a hospital zone shall take all necessary measures to prohibit access to all persons who have no right of residence or entry therein. 15

Article 4

Hospital zones shall fulfil the following conditions:

- a) They shall comprise only a small part of the territory governed by the Power which has established them. 20
- b) They shall be thinly populated in relation to the possibilities of accommodation. 25
- c) They shall be far removed and free from all military objectives, or large industrial or administrative establishments.
- d) They shall not be situated in areas which, according to every probability, may become important for the conduct of the war.

Article 5

Hospital zones shall be subject to the following obligations:

- a) The lines of communication and means of transport which they possess shall not be used for the transport of military personnel or material, even in transit. 30
- b) They shall in no case be defended by military means.

Article 6

Hospital zones shall be marked by means of red crosses (red crescents, red lions and suns) on a white background placed on the outer precincts and on the buildings. They may be similarly marked at night by means of appropriate illumination. 35

Article 7

The Powers shall communicate to all High Contracting Parties in peacetime or on the outbreak of hostilities, a list of the hospital zones in the territories governed by them. They shall also give notice of any new zones set up during hostilities. 40

As soon as the adverse Party has received the above-mentioned notification, the zone shall be regularly constituted.

If, however, the adverse Party considers that the conditions of the present agreement have not been fulfilled, it may refuse to recognize the zone by giving immediate notice thereof to the Party responsible for the said zone, or may make its recognition of such zone dependent upon the institution of the control provided for in Article 8. 45

Article 8

Any Power having recognized one of several hospital zones instituted by the adverse Party shall be entitled to demand control by one or more Special Commissioners, for the purpose of ascertaining if the zones fulfil the conditions and obligations stipulated in the present agreement. 50

For this purpose, the members of the Special Commissions shall at all times have free access to the various zones and may even reside there permanently. They shall be given all facilities for their duties of inspection.

Article 9

Should the Special Commissions note any facts which they consider contrary to the stipulations of the present agreement, they shall at once draw the attention of the Power governing the said zone to these facts, and shall fix a time limit of five days within which the matter should be rectified. They shall duly notify the Power who has recognized the zone. 5

If, when the time limit has expired, the Power governing the zone has not complied with the warning, the adverse Party may declare that it is no longer bound by the present agreement in respect of the said zone. 10

Article 10

Any Power setting up one or more hospital zones and localities, and the adverse Parties to whom their existence has been notified, shall nominate or have nominated by neutral Powers, the persons who shall be members of the Special Commissions mentioned in Articles 8 and 9. 15

Article 11

In no circumstances may hospital zones be the object of attack. They shall be protected and respected at all times by the Parties to the conflict. 20

Article 12

In the case of occupation of a territory, the hospital zones therein shall continue to be respected and utilized as such.



Their purpose may, however, be modified by the Occupying Power, on condition that all measures are taken to ensure the safety of the persons accommodated. 25

Article 13


The present agreement shall also apply to localities which the Powers may utilize for the same purposes as hospital zones.

ANNEX II

Front

	(Space reserved for the name of the country and military authority issuing this card)	
IDENTITY CARD for members of medical and religious personnel attached to the armed forces		
Surname.....		
First names		
Date of birth.....		
Rank		
Army Number.....		
The bearer of this card is 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, in his capacity as		
.....		
Date of issue	Number of Card	

Reverse side

Photo of bearer	Signature of bearer or finger-prints or both						
							
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SCHEDULE 2

GENEVA CONVENTION

FOR THE AMELIORATION OF THE CONDITION OF WOUNDED, SICK AND SHIPWRECKED MEMBERS OF ARMED FORCES AT SEA OF 12 AUGUST 1949

The undersigned Plenipotentiaries of the Governments represented at the Diplomatic Conference held at Geneva from April 21 to August 12, 1949, for the purpose of revising the Xth Hague Convention of October 18, 1907 for the Adaptation to Maritime Warfare of the Principles of the Geneva Convention of 1906, have agreed as follows: 5

CHAPTER I

GENERAL PROVISIONS

10

Article 1

The High Contracting Parties undertake to respect and to ensure respect for the present Convention in all circumstances.

Article 2

In addition to the provisions which shall be implemented in peacetime, the present Convention shall apply to all cases 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 of them. 15

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. 20

Although one of the Powers in conflict may not be a party to the present Convention, the Powers who are parties thereto shall 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 accepts and applies the provisions thereof.

Article 3

25

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 *hors de combat* 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. 30

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: 35

- a) violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture;
- b) taking of hostages;
- c) outrages upon personal dignity, in particular, humiliating and degrading treatment; 40
- d) the passing of sentences and the carrying out of executions without previous judgement pronounced by a regularly constituted court, affording all the judicial guarantees which are recognized as indispensable by civilized peoples.

- 2) The wounded, sick and shipwrecked shall be collected and cared for. 45

An impartial humanitarian body, such as the International Committee of the Red Cross, may offer its services to the Parties to the conflict.

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 present Convention.

The application of the preceding provisions shall not affect the legal status of the Parties to the conflict.

Article 4

In case of hostilities between land and naval forces of Parties to the conflict, the provisions of the present Convention shall apply only to forces on board ship.

Forces put ashore shall immediately become subject to the provisions of the Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field of August 12, 1949.

Article 5

Neutral Powers shall apply by analogy the provisions of the present Convention to the wounded, sick and shipwrecked, and to members of the medical personnel and to chaplains of the armed forces of the Parties to the conflict received or interned in their territory, as well as to dead persons found.

Article 6

In addition to the agreements expressly provided for in Articles 10, 18, 31, 38, 39, 40, 43 and 53, the High Contracting Parties may conclude other special agreements for all matters concerning which they may deem it suitable to make separate provision. No special agreement shall adversely affect the situation of wounded, sick and shipwrecked persons, of members of the medical personnel or of chaplains, as defined by the present Convention, nor restrict the rights which it confers upon them.

Wounded, sick and shipwrecked persons, as well as medical personnel and chaplains, shall continue to have the benefit of such agreements as long as the Convention is applicable to them, except where express provisions to the contrary are contained in the aforesaid or in subsequent agreements, or where more favourable measures have been taken with regard to them by one or other of the Parties to the conflict.

Article 7

Wounded, sick and shipwrecked persons, as well as members of the medical personnel and chaplains, may in no circumstances renounce in part or in entirety the rights secured to them by the present Convention, and by the special agreements referred to in the foregoing Article, if such there be.

Article 8

The present Convention shall be applied with the co-operation and under the scrutiny of the Protecting Powers whose duty it is to safeguard the interests of the Parties to the conflict. For this purpose, the Protecting Powers may appoint, apart from their diplomatic or consular staff, delegates from amongst their own nationals or the nationals of other neutral Powers. The said delegates shall be subject to the approval of the Power with which they are to carry out their duties.

The Parties to the conflict shall facilitate to the greatest extent possible the task of the representatives or delegates of the Protecting Powers.

The representatives or delegates of the Protecting Powers shall not in any case exceed their mission under the present Convention. They shall, in particular, take account of the imperative necessities of security of the State wherein they carry out their duties. Their activities shall only be restricted as an exceptional and temporary measure when this is rendered necessary by imperative military necessities.

Article 9

The provisions of the present Convention constitute no obstacle to the humanitarian activities which the International Committee of the Red Cross or any other impartial humanitarian organization may, subject to the consent of the Parties to the conflict concerned, undertake for the protection of wounded, sick and shipwrecked persons, medical personnel and chaplains, and for their relief.

Article 10

The High Contracting Parties may at any time agree to entrust to an organization which offers all guarantees of impartiality and efficacy the duties incumbent on the Protecting Powers by virtue of the present Convention.

When wounded, sick and shipwrecked, or medical personnel and chaplains do not benefit or cease to benefit, no matter for what reason, by the activities of a Protecting Power or of an organization provided for in the first paragraph above, the Detaining Power shall request a neutral State, or such an organization, to undertake the functions performed under the present Convention by a Protecting Power designated by the Parties to a conflict. 5 10

If protection cannot be arranged accordingly, the Detaining Power shall request or shall accept, subject to the provisions of this Article, the offer of the services of a humanitarian organization, such as the International Committee of the Red Cross, to assume the humanitarian functions performed by Protecting Powers under the present Convention. 15

Any neutral Power, or any organization invited by the Power concerned or offering itself for these purposes, shall be required to act with a sense of responsibility towards the Party to the conflict on which persons protected by the present Convention depend, and shall be required to furnish sufficient assurances that it is in a position to undertake the appropriate functions and to discharge them impartially. 20

No derogation from the preceding provisions shall be made by special agreements between Powers one of which is restricted, even temporarily, in its freedom to negotiate with the other Power or its allies by reason of military events, more particularly where the whole, or a substantial part, of the territory of the said Power is occupied.

Whenever, in the present Convention, mention is made of a Protecting Power, such mention also applies to substitute organizations in the sense of the present Article. 25

Article 11

In cases where they deem it advisable in the interest of protected persons, particularly in cases of disagreement between the Parties to the conflict as to the application or interpretation of the provisions of the present Convention, the Protecting Powers shall lend their good offices with a view to settling the disagreement. 30

For this purpose, each of the Protecting Powers may, either at the invitation of one Party or on its own initiative, propose to the Parties to the conflict a meeting of their representatives, in particular of the authorities responsible for the wounded, sick and shipwrecked, medical personnel and chaplains, possibly on neutral territory suitably chosen. The Parties to the conflict shall be bound to give effect to the proposals made to them for this purpose. The Protecting Powers may, if necessary, propose for approval by the Parties to the conflict, a person belonging to a neutral Power or delegated by the International Committee of the Red Cross, who shall be invited to take part in such a meeting. 35 40

CHAPTER II

WOUNDED, SICK AND SHIPWRECKED

Article 12

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. 45

Such persons shall be treated humanely and cared for by the Parties 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; 50

they shall not wilfully be left without medical assistance and care, nor shall conditions exposing them to contagion or infection be created.

Only urgent medical reasons will authorize priority in the order of treatment to be administered.

Women shall be treated with all consideration due to their sex. 5

Article 13

The present Convention shall apply to the wounded, sick and shipwrecked at sea belonging to the following categories:

- 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. 10
- 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: 15
 - a) that of being commanded by a person responsible for his subordinates;
 - b) that of having a fixed distinctive sign recognizable at a distance;
 - c) that of carrying arms openly;
 - d) that of conducting their operations in accordance with the laws and customs of war. 20
- 3) Members of regular armed forces who profess allegiance to a Government or an authority not recognized by the Detaining Power.
- 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. 25
- 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. 30
- 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. 35

Article 14

All warships of a belligerent Party shall have the right to demand that the wounded, sick or shipwrecked on board military hospital ships, and hospital ships belonging to relief societies or to private individuals, as well as merchant vessels, yachts and other craft shall be surrendered, whatever their nationality, provided that the wounded and sick are in a fit state to be moved and that the warship can provide adequate facilities for necessary medical treatment. 40

Article 15

If wounded, sick or shipwrecked persons are taken on board a neutral warship or a neutral military aircraft, it shall be ensured, where so required by international law, that they can take no further part in operations of war. 45

Article 16

Subject to the provisions of Article 12, the wounded, sick and shipwrecked of a belligerent who fall into enemy hands shall be prisoners of war, and the provisions of international law concerning prisoners of war shall apply to them. The captor may decide, according to circumstances, whether it is expedient to hold them, or to convey 50

them to a port in the captor's own country, to a neutral port or even to a port in enemy territory. In the last case, prisoners of war thus returned to their home country may not serve for the duration of the war.

Article 17

Wounded, sick or shipwrecked persons who are landed in neutral ports with the consent of the local authorities, shall, failing arrangements to the contrary between the neutral and the belligerent Powers, be so guarded by the neutral Power, where so required by international law, that the said persons cannot again take part in operations of war. 5

The costs of hospital accommodation and internment shall be borne by the Power on whom the wounded, sick or shipwrecked persons depend. 10

Article 18

After each engagement, Parties to the conflict shall, without delay, take all possible measures to search for and collect the shipwrecked, wounded and sick, to protect them against pillage and ill-treatment, to ensure their adequate care, and to search for the dead and prevent their being despoiled. 15

Whenever circumstances permit, the Parties to the conflict shall conclude local arrangements for the removal of the wounded and sick by sea from a besieged or encircled area and for the passage of medical and religious personnel and equipment on their way to that area.

Article 19

The Parties to the conflict shall record as soon as possible, in respect of each shipwrecked, wounded, sick or dead person of the adverse Party falling into their hands, any particulars which may assist in his identification. These records should if possible include: 20

- a) designation of the Power on which he depends; 25
- b) army, regimental, personal or serial number;
- c) surname;
- d) first name or names;
- e) date of birth;
- f) any other particulars shown on his identity card or disc; 30
- g) date and place of capture or death;
- h) particulars concerning wounds or illness, or cause of death.

As soon as possible the above-mentioned information shall be forwarded to the information bureau described in Article 122 of the Geneva Convention relative to the Treatment of Prisoners of War of August 12, 1949, which shall transmit this information to the Power on which these persons depend through the intermediary of the Protecting Power and of the Central Prisoners of War Agency. 35

Parties to the conflict shall prepare and forward to each other through the same bureau, certificates of death or duly authenticated lists of the dead. They shall likewise collect and forward through the same bureau one half of the double identity disc, or the identity disc itself if it is a single disc, last wills or other documents of importance to the next of kin, money and in general all articles of an intrinsic or sentimental value, which are found on the dead. These articles, together with unidentified articles, shall be sent in sealed packets, accompanied by statements giving all particulars necessary for the identification of the deceased owners, as well as by a complete list of the contents of the parcel. 40 45

Article 20

Parties to the conflict shall ensure that burial at sea of the dead, carried out individually as far as circumstances permit, is preceded by a careful examination, if possible by a medical examination, of the bodies, with a view to confirming death, establishing identity and enabling a report to be made. Where a double identity disc is used, one half of the disc should remain on the body. 50

If dead persons are landed, the provisions of the Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field of August 12, 1949 shall be applicable.

Article 21

The Parties to the conflict may appeal to the charity of commanders of neutral merchant vessels, yachts or other craft, to take on board and care for wounded, sick or shipwrecked persons, and to collect the dead. 5

Vessels of any kind responding to this appeal, and those having of their own accord collected wounded, sick or shipwrecked persons, shall enjoy special protection and facilities to carry out such assistance. 10

They may, in no case, be captured on account of any such transport; but, in the absence of any promise to the contrary, they shall remain liable to capture for any violations of neutrality they may have committed.

CHAPTER III HOSPITAL SHIPS

15

Article 22

Military hospital ships, that is to say, ships built or equipped by the Powers specially and solely with a view to assisting the wounded, sick and shipwrecked, to treating them and to transporting them, may in no circumstances be attacked or captured, but shall at all times be respected and protected, on condition that their names and descriptions have been notified to the Parties to the conflict ten days before those ships are employed. 20

The characteristics which must appear in the notification shall include registered gross tonnage, the length from stem to stern and the number of masts and funnels.

Article 23

Establishments ashore entitled to the protection of the Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field of August 12, 1949 shall be protected from bombardment or attack from the sea. 25

Article 24

Hospital ships utilized by National Red Cross Societies, by officially recognized relief societies or by private persons shall have the same protection as military hospital ships and shall be exempt from capture, if the Party to the conflict on which they depend has given them an official commission and in so far as the provisions of Article 22 concerning notification have been complied with. 30

These ships must be provided with certificates from the responsible authorities, stating that the vessels have been under their control while fitting out and on departure. 35

Article 25

Hospital ships utilized by National Red Cross Societies, officially recognized relief societies, or private persons of neutral countries shall have the same protection as military hospital ships and shall be exempt from capture, on condition that they have placed themselves under the control of one of the Parties to the conflict, with the previous consent of their own governments and with the authorization of the Party to the conflict concerned, in so far as the provisions of Article 22 concerning notification have been complied with. 40

Article 26

The protection mentioned in Articles 22, 24 and 25 shall apply to hospital ships of any tonnage and to their lifeboats, wherever they are operating. Nevertheless, to ensure the maximum comfort and security, the Parties to the conflict shall endeavour to utilize, for the transport of wounded, sick and shipwrecked over long distances and on the high seas, only hospital ships of over 2,000 tons gross. 45

Article 27

Under the same conditions as those provided for in Articles 22 and 24, small craft employed by the State or by the officially recognized lifeboat institutions for coastal rescue operations, shall also be respected and protected, so far as operational requirements permit. 5

The same shall apply so far as possible to fixed coastal installations used exclusively by these craft for their humanitarian missions.

Article 28

Should fighting occur on board a warship, the sick-bays shall be respected and spared as far as possible. Sick-bays and their equipment shall remain subject to the laws of warfare, but may not be diverted from their purpose so long as they are required for the wounded and sick. Nevertheless, the commander into whose power they have fallen may, after ensuring the proper care of the wounded and sick who are accommodated therein, apply them to other purposes in case of urgent military necessity. 10

Article 29

Any hospital ship in a port which falls into the hands of the enemy shall be authorized to leave the said port. 15

Article 30

The vessels described in Articles 22, 24, 25 and 27 shall afford relief and assistance to the wounded, sick and shipwrecked without distinction of nationality. 20

The High Contracting Parties undertake not to use these vessels for any military purpose.

Such vessels shall in no wise hamper the movements of the combatants.

During and after an engagement, they will act at their own risk.

Article 31

The Parties to the conflict shall have the right to control and search the vessels mentioned in Articles 22, 24, 25 and 27. They can refuse assistance from these vessels, order them off, make them take a certain course, control the use of their wireless and other means of communication, and even detain them for a period not exceeding seven days from the time of interception, if the gravity of the circumstances so requires. 25 30

They may put a commissioner temporarily on board whose sole task shall be to see that orders given in virtue of the provisions of the preceding paragraph are carried out.

As far as possible, the Parties to the conflict shall enter in the log of the hospital ship, in a language he can understand, the orders they have given the captain of the vessel.

Parties to the conflict may, either unilaterally or by particular agreements, put on board their ships neutral observers who shall verify the strict observation of the provisions contained in the present Convention. 35

Article 32

Vessels described in Articles 22, 24, 25 and 27 are not classed as warships as regards their stay in a neutral port. 40

Article 33

Merchant vessels which have been transformed into hospital ships cannot be put to any other use throughout the duration of hostilities.

Article 34

The protection to which hospital ships and sick-bays are entitled shall not cease unless they are used to commit, outside their humanitarian duties, acts harmful to the enemy. Protection may, however, cease only after due warning has been given, naming in all appropriate cases a reasonable time limit, and after such warning has remained unheeded. 45