Commentary on the First Geneva Convention

Convention (I) for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field

The application and interpretation of the four Geneva Conventions of 1949 and their two Additional Protocols of 1977 have developed significantly in the sixty years since the International Committee of the Red Cross (ICRC) first published its Commentaries on these important humanitarian treaties. To promote a better understanding of, and respect for, this body of law, the ICRC commissioned a comprehensive update of its original Commentaries, of which this is the first volume.

The First Convention is a foundational text of international humanitarian law. It contains the essential rules on the protection of the wounded and sick, those assigned to their care, and the red cross and red crescent emblems. This article-by-article Commentary takes into account developments in the law and practice to provide up-to-date interpretations of the Convention. The new Commentary has been reviewed by humanitarian-law practitioners and academics from around the world. It is an essential tool for anyone working or studying within this field.
INTERNATIONAL COMMITTEE OF THE RED CROSS

COMMENTARY ON THE FIRST GENEVA CONVENTION

Convention (I) for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field

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*Acknowledgements*  
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  Iris Müller

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FOREWORD BY PETER MAURER

President of the International Committee of the Red Cross

When the original Commentary on the First Geneva Convention was written in 1952, the horrors of the Second World War were still fresh in people's memory, but so was the humanitarian spirit that prevailed at the 1949 Diplomatic Conference and that made the adoption of the Geneva Conventions possible. More than 60 years later, we find ourselves confronted with a similar contradiction.

On the one hand, we are witnessing an increasing fragmentation and complexity in today's armed conflicts, which are often characterized by disregard for the law. The misery they engender – the suffering of children, the despair of families trapped in sieges or forced from their homes, the abuse of the wounded and sick – is brought daily to our attention through different media channels. On the other hand, the community of States has agreed on a stronger and more comprehensive normative legal framework than ever before. We know that the values that found expression in the Geneva Conventions have become an essential part of our common heritage of humanity, as growing numbers of people around the world share a moral and legal conviction in them.

These contradicting realities challenge us to act: to react to the suffering and violations of the law, and to prevent them from occurring in the first place.

In these efforts, it is part of the ICRC's role and mandate to work towards a common understanding of international humanitarian law through engagement with all stakeholders, including political and religious leaders, key opinion and policymakers, academic circles, the judiciary and, last but not least, weapon bearers.

With this updated Commentary on the First Geneva Convention, the ICRC presents a new tool for practitioners and scholars, as part of our joint endeavour to close the gap between the law as it stands and the law as it is applied on the ground.

We know that the first editions of the Commentaries on the four Geneva Conventions have been useful for military and civilian practitioners as well as for judges and academics. A lot of time has passed since the first editions were published, and we have gained a great deal of experience in applying and interpreting the Conventions in contexts very different from those that led to their adoption. This is why, five years ago, the ICRC committed itself to the monumental task of updating all the existing Commentaries and of preparing
Foreword by Peter Maurer

new guidance on the basis of a variety of sources, including interpretations by States and courts over the past decades. With the publication of the first instalment, the Commentary on the First Convention, we have reached the first milestone.

The ICRC is in a unique position to oversee the updating of the Commentaries. The organization combines the perspectives of law and operations, and the updated Commentaries benefit from the input of colleagues representing these aspects of our work. Equally importantly, the updated Commentary was opened to unprecedented external input from a global network of scholars and practitioners, who drafted commentaries on specific articles of the Convention, reviewed all the drafts and gave advice. The final text is thus the result of a collaborative process.

The new Commentary provides guidance on and contextualization of the Convention’s rules. It presents the ICRC’s interpretation of the law, but it also indicates the main diverging views and issues requiring further discussion and clarification. The ICRC will duly take this updated Commentary into account in its daily work, while being aware that practice and interpretations may evolve over time.

The ICRC expresses its gratitude to the experts who gave freely of their time and expertise, in particular the external contributors and peer reviewers. It also thanks the members of the Editorial Committee, the project team and other staff members who brought the updated Commentary to fruition.

In presenting this volume to the States party to the Geneva Conventions, to National Red Cross and Red Crescent Societies and other humanitarian organizations, to judges and scholars and to other interested parties, the ICRC sincerely hopes that this Commentary, along with others to come in the years ahead, will clarify the meaning and significance of the Geneva Conventions and help to ensure greater protection for war victims.
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ABBREVIATIONS

AU African Union
DRC Democratic Republic of the Congo
ECCC Extraordinary Chambers in the Courts of Cambodia
EU European Union
ICC International Criminal Court
ICJ International Court of Justice
ICJ Reports International Court of Justice, Reports of Judgments, Advisory Opinions and Orders
ICRC International Committee of the Red Cross
ICTR International Criminal Tribunal for Rwanda
ICTY International Criminal Tribunal for the former Yugoslavia
IHL International humanitarian law
IHFFC International Humanitarian Fact-Finding Commission
ILA International Law Association
ILC International Law Commission
IMT International Military Tribunal
LOAC Law of armed conflict
NATO North Atlantic Treaty Organisation
OAS Organization of American States
OAU Organization of African Unity (now African Union)
PCIJ Permanent Court of International Justice
UN United Nations
UNESCO United Nations Education, Scientific and Cultural Organization
UNHCR United Nations High Commissioner for Refugees
UNICEF United Nations Children’s Emergency Fund
UDFR Union des forces démocratiques pour le rassemblement
USSR Union of Soviet Socialist Republics
UK United Kingdom of Great Britain and Northern Ireland
US United States of America