

### **BAB III**

### **PENUTUP**

#### **A. Kesimpulan**

Berdasarkan uraian diatas maka dapat ditarik kesimpulan bahwa bagi anggota milisi Hezbollah yang tertangkap oleh pasukan Israel dalam konflik bersenjata di Libanon tahun 2006, oleh Israel dianggap sebagai kombatan yang tidak sah dan dapat dijatuhi hukuman sesuai dengan hukum Israel dengan tuntutan melakukan tindakan yang digolongkan sebagai *War Crimes*. Padahal para anggota milisi Hezbollah telah memenuhi persyaratan yang ditentukan dalam pasal 43 Protokol 1 tahun 1977, sehingga mereka berhak atas status sebagai kombatan yang sah dalam konflik bersenjata yang terjadi di Libanon tahun 2006 dan seharusnya mendapatkan perlindungan sebagai tawanan perang dan dipulangkan kembali ke Libanon.

#### **B. Saran**

1. Diadakan penyidikan dan pengadilan yang adil bagi milisi Hezbollah yang tertangkap. Jika terbukti melakukan pelanggaran terhadap hukum humaniter internasional maka dihukum sesuai dengan hukum yang berlaku di Israel, tetapi jika tidak terbukti harus dipulangkan ke negara asal dan diberi kompensasi atas perlakuan yang dialaminya saat dalam tahanan.

2. Pensosialisasian hukum humaniter internasional agar permasalahan yang dialami oleh milisi Hezbollah tidak terulang kembali.
3. Dibuatnya ketentuan hukum humaniter internasional yang baru mengenai komabatan yang sah dan kombatan yang tidak sah secara jelas.



## DAFTAR PUSTAKA

### Buku

Arlina Permanasari et al, 1999, *Pengantar Hukum Humaniter*, ICRC, Jakarta

Djatikoesoemo G.P.H., 1956, *Hukum Internasional Bagian Perang*, N.V. Pemandangan, Jakarta

Hans-Peter Gasser, 1993, *International Humanitarian Law, An Introduction*, Paul Haupt Publisher, Stuttgart

Haryomatararam GPH, 1984, *Hukum Humaniter*, CV. Rajawali, Jakarta

Jean Pictet, 1985, *Development and Principles of International Humanitarian Law*, Martinus Nijhoff Publishers, Dordrecht

Marwati Djonoed Poesponegoro, 1982, *Tokoh dan Peristiwa dalam Sejarah Eropa 1815 – 1945*, Erlangga, Jakarta

Peter Mahmud Marzuki, 2005, *Penelitian Hukum*, Prenada Media, Jakarta

Starke J.G., 1989, *Introduction to International Law, Tenth Edition*, Butterworth, London

Sugeng Istanto F, 1992, *Perlindungan Penduduk Sipil dalam Perlawanan Rakyat Semesta dan Hukum Internasional*, Andi Offset, Yogyakarta

### Artikel

Colbert Held C., *Lebanon (Country), History*, Encarta Reference Library Premium 2005

Earl F. Ziemke, *World War II, Human Losses*, Encarta Reference Library Premium 2005

Peter Mahmud Marzuki, *Yuridika, Penelitian Hukum*, Vol. No.1. Maret-April 2001

Philipus M. Hadjon, *Makalah Pelatihan Argumentasi Hukum Fakultas Hukum Universitas Airlangga, Dasar Argumentasi Hukum dan Legal Opinion (Legal Memo)*, 18 Juni 2004

## Website

**[http://en.wikipedia.org/wiki/2006 israel-lebanon conflict](http://en.wikipedia.org/wiki/2006_israel-lebanon_conflict)**, anonymous, 2006 *Israel-Lebanon conflict*, tanggal 26 Maret 2007

**[http://en.wikipedia.org/wiki/Hague Conventions \(1899 and 1907\)](http://en.wikipedia.org/wiki/Hague_Conventions_(1899_and_1907))**, anonymous, *Hague Convention of 1907*, 9 Januari 2007

**[http://en.wikipedia.org/wiki/Geneva Conventions 1949](http://en.wikipedia.org/wiki/Geneva_Conventions_1949)**, anonymous, *Geneva Conventions of 1949*, 9 Januari 2007

**<http://en.wikipedia.org/wiki/Hezbollah>**, anonymous, *History*, tanggal 10 Februari 2007

**[http://en.wikipedia.org/wiki/International Humanitarian Law](http://en.wikipedia.org/wiki/International_Humanitarian_Law)**, anonymous, *International Humanitarian Law*, 9 Januari 2007

**<http://en.wikipedia.org/wiki/lebanon>**, anonymous, *Current Situation*, tanggal 8 September 2006

**<http://en.wikipedia.org/wiki/militia>**, anonymous, *militia*, tanggal 10 Februari 2007

**[http://en.wikipedia.org/wiki/United Nations Security Council Resolution 1559](http://en.wikipedia.org/wiki/United_Nations_Security_Council_Resolution_1559)**, anonymous, *United Nations Security Council Resolution 1559*, tanggal 8 September 2006

**<http://jurist.law.pitt.edu/forumy/2006/08>**, Robbie Sabel, *Hezbollah, Israel, Lebanon and the Law of armed conflict*, tanggal 17 Mei 2007

**<http://www.angus-reid.com/polls>**, anonymous, tanggal 1 November 2006

**<http://www.beirutcenter.info>**, anonymous, tanggal 1 November 2006

**<Http://www.guardian.co.uk/israel/Story>**, anonymous, *Story*, tanggal 17 Mei 2007

**[http://www.icrc.org/Web/eng/siteeng0.nsf/html/humanitarian law](http://www.icrc.org/Web/eng/siteeng0.nsf/html/humanitarian_law)**, anonymous, *the definition of humanitarian law*, tanggal 20 november 2006

**<http://www.semp.us/biots>**, Tom Diaz , *Lebanon's Hizbullah*, tanggal 10 Februari 2007

**Konvensi-konvensi**

*Hague Convention (2) Laws and Customs of War on Land, July 29, 1899*

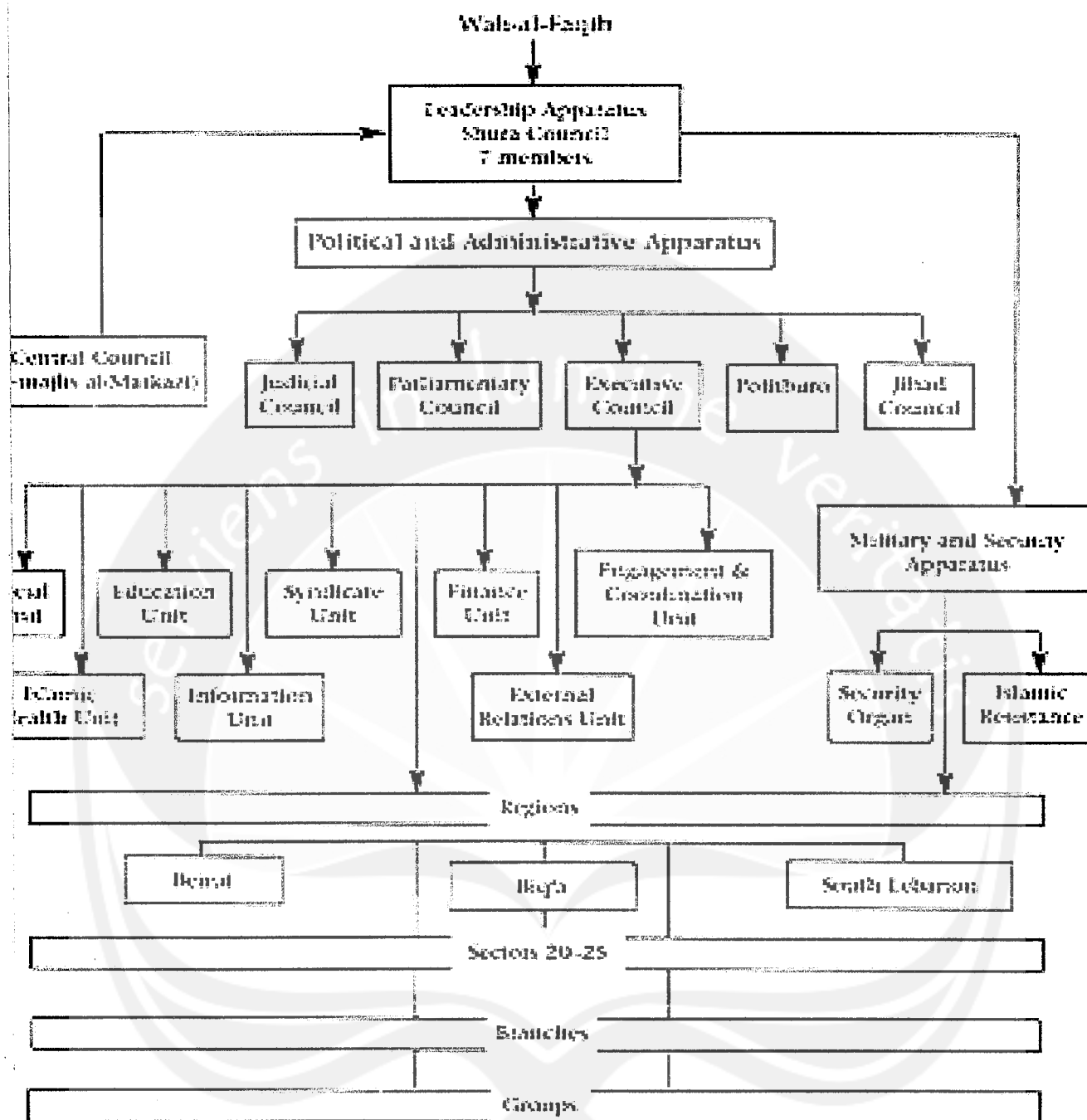
*Hague Convention (4) Laws and Customs of War on Land, October 18, 1907*

*Convention (I) for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field. Geneva, 12 August 1949*

*Convention (3) relative to the Treatment of Prisoner's of War, Geneva, 12 August 1949*

*Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), 8 June 1977*





Source: Author's composite figure based on various activities reported by *Al-Mad* between 1988 and 2002, and on interviews.

Figure 4.1. Hizbullah's Organizational Structure

## LAMPIRAN 1

**Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), 8 June 1977.**

**PREAMBLE.**

The High Contracting Parties,

Proclaiming their earnest wish to see peace prevail among peoples,

Recalling that every State has the duty, in conformity with the Charter of the United Nations, to refrain in its international relations from the threat or use of force against the sovereignty, territorial integrity or political independence of any State, or in any other manner inconsistent with the purposes of the United Nations,

Believing it necessary nevertheless to reaffirm and develop the provisions protecting the victims of armed conflicts and to supplement measures intended to reinforce their application,

Expressing their conviction that nothing in this Protocol or in the Geneva Conventions of 12 August 1949 can be construed as legitimizing or authorizing any act of aggression or any other use of force inconsistent with the Charter of the United Nations,

Reaffirming further that the provisions of the Geneva Conventions of 12 August 1949 and of this Protocol must be fully applied in all circumstances to all persons who are protected by those instruments, without any adverse distinction based on the nature or origin of the armed conflict or on the causes espoused by or attributed to the Parties to the conflict,

Have agreed on the following:

**PART I. GENERAL PROVISIONS**

**Art 1. General principles and scope of application**

1. The High Contracting Parties undertake to respect and to ensure respect for this Protocol in all circumstances.

2. In cases not covered by this Protocol or by other international agreements, civilians and combatants remain under the protection and authority of the principles of international law derived from established custom, from the principles of humanity and from dictates of public conscience.

3. This Protocol, which supplements the Geneva Conventions of 12 August 1949 for the protection of war victims, shall apply in the situations referred to in Article 2 common to those Conventions.

4. The situations referred to in the preceding paragraph include armed conflicts which peoples are fighting against colonial domination and alien occupation and against racist regimes in the exercise of their right of self-determination, as enshrined in the Charter of the United Nations and the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations.

#### Art 2. Definitions

For the purposes of this Protocol:

(a) "First Convention", "Second Convention", "Third Convention" and "Fourth Convention" mean, respectively, the Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field of 12 August 1949; the Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Ship-wrecked Members of Armed Forces at Sea of 12 August 1949; the Geneva Convention relative to the Treatment of Prisoners of War of 12 August 1949; the Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949; "the Conventions" means the four Geneva Conventions of 12 August 1949 for the protection of war victims;

(b) "Rules of international law applicable in armed conflict" means the rules applicable in armed conflict set forth in international agreements to which the Parties to the conflict are Parties and the generally recognized principles and rules of international law which are applicable to armed conflict;

(c) "Protecting Power" means a neutral or other State not a Party to the conflict which has been designated by a Party to the conflict and accepted by the adverse Party and has agreed to carry out the functions assigned to a Protecting Power under the Conventions and this Protocol;

(d) "Substitute" means an organization acting in place of a Protecting Power in accordance with Article 5.

#### Art 3. Beginning and end of application

Without prejudice to the provisions which are applicable at all times:



(a) the Conventions and this Protocol shall apply from the beginning of any situation referred to in Article 1 of this Protocol.

(b) the application of the Conventions and of this Protocol shall cease, in the territory of Parties to the conflict, on the general close of military operations and, in the case of occupied territories, on the termination of the occupation, except, in either circumstance, for those persons whose final release, repatriation or re-establishment takes place thereafter. These persons shall continue to benefit from the relevant provisions of the Conventions and of this Protocol until their final release repatriation or re-establishment.

#### Art 4. Legal status of the Parties to the conflict

The application of the Conventions and of this Protocol, as well as the conclusion of the agreements provided for therein, shall not affect the legal status of the Parties to the conflict. Neither the occupation of a territory nor the application of the Conventions and this Protocol shall affect the legal status of the territory in question.

#### Art 5. Appointment of Protecting Powers and of their substitute

1. It is the duty of the Parties to a conflict from the beginning of that conflict to secure the supervision and implementation of the Conventions and of this Protocol by the application of the system of Protecting Powers, including inter alia the designation and acceptance of those Powers, in accordance with the following paragraphs. Protecting Powers shall have the duty of safeguarding the interests of the Parties to the conflict.

2. From the beginning of a situation referred to in Article 1, each Party to the conflict shall without delay designate a Protecting Power for the purpose of applying the Conventions and this Protocol and shall, likewise without delay and for the same purpose, permit the activities of a Protecting Power which has been accepted by it as such after designation by the adverse Party.

3. If a Protecting Power has not been designated or accepted from the beginning of a situation referred to in Article 1, the International Committee of the Red Cross, without prejudice to the right of any other impartial humanitarian organization to do likewise, shall offer its good offices to the Parties to the conflict with a view to the designation without delay of a Protecting Power to which the Parties to the conflict consent. For that purpose it may inter alia ask each Party to provide it with a list of at least five States which that Party considers acceptable to act as Protecting Power on its behalf in relation to an adverse Party and ask each adverse Party to provide a list of at least five States which it would accept as the

Protecting Power of the first Party; these lists shall be communicated to the Committee within two weeks after the receipt or the request; it shall compare them and seek the agreement of any proposed State named on both lists.

4. If, despite the foregoing, there is no Protecting Power, the Parties to the conflict shall accept without delay an offer which may be made by the International Committee of the Red Cross or by any other organization which offers all guarantees of impartiality and efficacy, after due consultations with the said Parties and taking into account the result of these consultations, to act as a substitute. The functioning of such a substitute is subject to the consent of the Parties to the conflict; every effort shall be made by the Parties to the conflict to facilitate the operations of the substitute in the performance of its tasks under the Conventions and this Protocol.

5. In accordance with Article 4, the designation and acceptance of Protecting Powers for the purpose of applying the Conventions and this Protocol shall not affect the legal status of the Parties to the conflict or of any territory, including occupied territory.

6. The maintenance of diplomatic relations between Parties to the conflict or the entrusting of the protection of a Party's interests and those of its nationals to a third State in accordance with the rules of international law relating to diplomatic relations is no obstacle to the designation of Protecting Powers for the purpose of applying the Conventions and this Protocol.

7. Any subsequent mention in this Protocol of a Protecting Power includes also a substitute.

#### Art 6. Qualified persons

1. The High Contracting Parties shall, also in peacetime, endeavour, with the assistance of the national Red Cross (Red Crescent, Red Lion and Sun) Societies, to train qualified personnel to facilitate the application of the Conventions and of this Protocol, and in particular the activities of the Protecting Powers.

2. The recruitment and training of such personnel are within domestic jurisdiction.

3. The International Committee of the Red Cross shall hold at the disposal of the High Contracting Parties the lists of persons so trained which the High Contracting Parties may have established and may have transmitted to it for that purpose.

4. The conditions governing the employment of such personnel outside the national territory shall, in each case, be the subject of special agreements between the Parties concerned.

#### Article 7 – Meetings

The depositary of this Protocol shall convene a meeting of the High Contracting Parties, at the request of one or more of the said Parties and upon, the approval of the majority of the said Parties, to consider general problems concerning the application of the Conventions and of the Protocol.

### Part. II WOUNDED, SICK AND SHIPWRECKED

#### Section I : General Protection

#### Art 8. Terminology

For the purposes of this Protocol:

a) "Wounded" and "sick" mean persons, whether military or civilian, who, because of trauma, disease or other physical or mental disorder or disability, are in need of medical assistance or care and who refrain from any act of hostility. These terms also cover maternity cases, new-born babies and other persons who may be in need of immediate medical assistance or care, such as the infirm or expectant mothers, and who refrain from any act of hostility;

b) "Shipwrecked" means persons, whether military or civilian, who are in peril at sea or in other waters as a result of misfortune affecting them or the vessel or aircraft carrying them and who refrain from any act of hostility. These persons, provided that they continue to refrain from any act of hostility, shall continue to be considered shipwrecked during their rescue until they acquire another status under the Conventions or this Protocol;

c) "Medical personnel" means those persons assigned, by a Party to the conflict, exclusively to the medical purposes enumerated under e) or to the administration of medical units or to the operation or administration of medical transports. Such assignments may be either permanent or

temporary. The term includes:

i) medical personnel of a Party to the conflict, whether military or civilian, including those described in the First and Second Conventions, and those assigned to civil defence organizations;

ii) medical personnel of national Red Cross (Red Crescent, Red Lion and Sun) Societies and other national voluntary aid societies duly recognized and authorized by a Party to the conflict;

iii) medical personnel or medical units or medical transports described in Article 9, paragraph 2.

d) "Religious personnel" means military or civilian persons, such as chaplains, who are exclusively engaged in the work of their ministry and attached:

i) to the armed forces of a Party to the conflict;

ii) to medical units or medical transports of a Party to the conflict;

iii) to medical units or medical transports described in Article 9, Paragraph 2; or

iv) to civil defence organizations of a Party to the conflict.

The attachment of religious personnel may be either permanent or temporary, and the relevant provisions mentioned under k) apply to them;

e) "Medical units" means establishments and other units, whether military or civilian, organized for medical purposes, namely the search for, collection, transportation, diagnosis or treatment - including first-aid treatment - of the wounded, sick and shipwrecked, or for the prevention of disease. The term includes for example, hospitals and other similar units, blood transfusion centres, preventive medicine centres and institutes, medical depots and the medical and pharmaceutical stores of such units. Medical units may be fixed or mobile, permanent or temporary;

f) "Medical transportation" means the conveyance by land, water or air of the wounded, sick, shipwrecked, medical personnel, religious personnel, medical equipment or medical supplies protected by the Conventions and by this Protocol;

g) "Medical transports" means any means of transportation, whether military or civilian, permanent or temporary, assigned exclusively to medical transportation and under the control of a competent authority of a Party to the conflict;

h) "Medical vehicles" means any medical transports by land;

i) "Medical ships and craft" means any medical transports by water;

j) "Medical aircraft" means any medical transports by air;

k) "Permanent medical personnel", "permanent medical units" and "permanent medical transports" mean those assigned exclusively to medical purposes for an indeterminate period. "Temporary medical personnel" "temporary medical-units" and "temporary medical transports" mean those devoted exclusively to medical purposes for limited periods during the whole of such periods. Unless otherwise specified, the terms "medical personnel", "medical units" and "medical transports" cover both permanent and temporary categories;

l) "Distinctive emblem" means the distinctive emblem of the red cross, red crescent or red lion and sun on a white ground when used for the protection of medical units and transports, or medical and religious personnel, equipment or supplies;

m) "Distinctive signal" means any signal or message specified for the identification exclusively of medical units or transports in.

#### Chapter III of Annex I to this Protocol.

#### Art 9. Field of application

1. This Part, the provisions of which are intended to ameliorate the condition of the wounded, sick and shipwrecked, shall apply to all those affected by a situation referred to in Article 1, without any adverse distinction founded on race, colour, sex, language, religion or belief political or other opinion, national or social origin, wealth, birth or other status, or on any other similar criteria.

2. The relevant provisions of Articles 27 and 32 of the First Convention shall apply to permanent medical units and transports (other than hospital ships, to which Article 25 of the Second Convention applies) and their personnel made available to a Party to the conflict for humanitarian purposes:

(a) by a neutral or other State which is not a Party to that conflict;

(b) by a recognized and authorized aid society of such a State;

(c) by an impartial international humanitarian organization.

#### Art 10 Protection and care

1. All the wounded, sick and shipwrecked, to whichever Party they belong, shall be respected and protected.

2. In all circumstances they shall be treated humanely and shall receive, to the fullest extent practicable and with the least possible delay, the medical care and attention required by their condition. There shall be no distinction among them founded on any grounds other than medical ones.

#### Article 11 - Protection of persons

1. The physical or mental health and integrity of persons who are in the power of the adverse Party or who are interned, detained or otherwise deprived of liberty as a result of a situation referred to in Article 1 shall not be endangered by any unjustified act or omission. Accordingly, it is prohibited to subject the persons described in this Article to any medical procedure which is not indicated by the state of health of the person concerned and which is not consistent with generally accepted medical standards which would be applied under similar medical circumstances to persons who are nationals of the Party conducting the procedure and who are in no way deprived of liberty.

2. It is, in particular, prohibited to carry out on such persons, even with their consent:

(a) physical mutilations;

(b) medical or scientific experiments;

(c) removal of tissue or organs for transplantation, except where these acts are justified in conformity with the conditions provided for in paragraph 1.

3. Exceptions to the prohibition in paragraph 2 (c) may be made only in the case of donations of blood for transfusion or of skin for grafting, provided that they are given voluntarily and without any coercion or inducement, and then only for therapeutic purposes, under conditions consistent with generally accepted medical standards and controls designed for the benefit of both the donor and the recipient.

4. Any wilful act or omission which seriously endangers the physical or mental health or integrity of any person who is in the power of a Party other than the one on which he depends and which either violates any of the prohibitions in paragraphs 1 and 2 or fails to comply with the requirements of paragraph 3 shall be a grave breach of this Protocol.

5. The persons described in paragraph 1 have the right to refuse any surgical operation. In case of refusal, medical personnel shall endeavour to obtain a written statement to that effect, signed or acknowledged by the patient.

6. Each Party to the conflict shall keep a medical record for every donation of blood for transfusion or skin for grafting by persons referred to in paragraph 1, if that donation is made under the responsibility of that Party. In addition, each Party to the conflict shall endeavour to keep a record of all medical procedures undertaken with respect to any person who is interned, detained or otherwise deprived of liberty as a result of a situation referred to in Article 1. These records shall be available at all times for inspection by the Protecting Power.

#### Art 12 Protection of medical units

1. Medical units shall be respected and protected at all times and shall not be the object of attack.

2. Paragraph 1 shall apply to civilian medical units, provided that they:

(a) belong to one of the Parties to the conflict;

(b) are recognized and authorized by the competent authority of one of the Parties to the conflict; or

(c) are authorized in conformity with Article 9, paragraph 2, of this Protocol or Article 27 of the First Convention.

3. The Parties to the conflict are invited to notify each other of the location of their fixed medical units. The absence of such notification shall not exempt any of the Parties from the obligation to comply with the provisions of paragraph 1.

4. Under no circumstances shall medical units be used in an attempt to shield military objectives from attack. Whenever possible, the Parties to the conflict shall ensure that medical units are so sited that attacks against military objectives do not imperil their safety.

#### Art 13. Discontinuance of protection of civilian medical units

1. The protection to which civilian medical units are entitled shall not cease unless they are used to commit, outside their humanitarian function, acts harmful to the enemy. Protection may, however, cease only after a warning has been given setting, whenever appropriate, a reasonable time-limit, and after such warning has remained unheeded.

2. The following shall not be considered as acts harmful to the enemy:

(a) that the personnel of the unit are equipped with light individual weapons for their own defence or for that of the wounded and sick in their charge;

(b) that the unit is guarded by a picket or by sentries or by an escort;

(c) that small arms and ammunition taken from the wounded and sick, and not yet handed to the proper service, are found in the units;

(d) that members of the armed forces or other combatants are in the unit for medical reasons.

#### Art 14 - Limitations on requisition of civilian medical units

1. The Occupying Power has the duty to ensure that the medical needs of the civilian population in occupied territory continue to be satisfied.

2. The Occupying Power shall not, therefore, requisition civilian medical units, their equipment, their materiel or the services of their personnel, so long as these resources are necessary for the provision of adequate medical services for the civilian population and for the continuing medical care of any wounded and sick already under treatment.

3. Provided that the general rule in paragraph 2 continues to be observed, the Occupying Power may requisition the said resources, subject to the following particular conditions:

(a) that the resources are necessary for the adequate and immediate medical treatment of the wounded and sick members of the armed forces of the Occupying Power or of prisoners of war;

(b) that the requisition continues only while such necessity exists; and

(c) that immediate arrangements are made to ensure that the medical needs of the civilian population, as well as those of any wounded and sick under treatment who are affected by the requisition, continue to be satisfied.

#### Art 15. Protection of civilian medical and religious personnel

1. Civilian medical personnel shall be respected and protected.

2. If needed, all available help shall be afforded to civilian medical personnel in an area where civilian medical services are disrupted by reason of combat activity.



3. The Occupying Power shall afford civilian medical personnel in occupied territories every assistance to enable them to perform, to the best of their ability, their humanitarian functions. The Occupying Power may not require that, in the performance of those functions, such personnel shall give priority to the treatment of any person except on medical grounds. They shall not be compelled to carry out tasks which are not compatible with their humanitarian mission.

4. Civilian medical personnel shall have access to any place where their services are essential, subject to such supervisory and safety measures as the relevant Party to the conflict may deem necessary.

5. Civilian religious personnel shall be respected and protected. The provisions of the Conventions and of this Protocol concerning the protection and identification of medical personnel shall apply equally to such persons.

#### Art 16. General protection of medical duties

1. Under no circumstances shall any person be punished for carrying out medical activities compatible with medical ethics, regardless of the person benefiting therefrom.

2. Persons engaged in medical activities shall not be compelled to perform acts or to carry out work contrary to the rules of medical ethics or to other medical rules designed for the benefit of the wounded and sick or to the provisions of the Conventions or of this Protocol, or to refrain from performing acts or from carrying out work required by those rules and provisions.

3. No person engaged in medical activities shall be compelled to give to anyone belonging either to an adverse Party, or to his own Party except as required by the law of the latter Party, any information concerning the wounded and sick who are, or who have been, under his care, if such information would, in his opinion, prove harmful to the patients concerned or to their families. Regulations for the compulsory notification of communicable diseases shall, however, be respected.

#### Art 17. Role of the civilian population and of aid societies

1. The civilian population shall respect the wounded, sick and shipwrecked, even if they belong to the adverse Party, and shall commit no act of violence against them. The civilian population and aid societies, such as national Red Cross (Red Crescent, Red Lion and Sun) Societies, shall be permitted, even on their own initiative, to collect and care for the wounded, sick and shipwrecked, even in invaded or occupied areas. No

one shall be harmed, prosecuted, convicted or punished for such humanitarian acts.

2. The Parties to the conflict may appeal to the civilian population and the aid societies referred to in paragraph 1 to collect and care for the wounded, sick and shipwrecked, and to search for the dead and report their location; they shall grant both protection and the necessary facilities to those who respond to this appeal. If the adverse Party gains or regains control of the area, that Party also shall afford the same protection and facilities for as long as they are needed.

#### Art 18. Identification

1. Each Party to the conflict shall endeavour to ensure that medical and religious personnel and medical units and transports are identifiable.

2. Each Party to the conflict shall also endeavour to adopt and to implement methods and procedures which will make it possible to recognize medical units and transports which use the distinctive emblem and distinctive signals.

3. In occupied territory and in areas where fighting is taking place or is likely to take place, civilian medical personnel and civilian religious personnel should be recognizable by the distinctive emblem and an identity card certifying their status.

4. With the consent of the competent authority, medical units and transports shall be marked by the distinctive emblem. The ships and craft referred to in Article 22 of this Protocol shall be marked in accordance with the provisions of the Second Convention.

5. In addition to the distinctive emblem, a Party to the conflict may, as provided in Chapter III of Annex I to this Protocol, authorize the use of distinctive signals to identify medical units and transports. Exceptionally, in the special cases covered in that Chapter, medical transports may use distinctive signals without displaying the distinctive emblem.

6. The application of the provisions of paragraphs 1 to 5 of this article is governed by Chapters I to III of Annex I to this Protocol. Signals designated in Chapter III of the Annex for the exclusive use of medical units and transports shall not, except as provided therein, be used for any purpose other than to identify the medical units and transports specified in that Chapter.

7. This article does not authorize any wider use of the distinctive emblem in peacetime than is prescribed in Article 44 of the First Convention.

8. The provisions of the Conventions and of this Protocol relating to supervision of the use of the distinctive emblem and to the prevention and repression of any misuse thereof shall be applicable to distinctive signals.

Art 19. Neutral and other States not Parties to the conflict

Neutral and other States not Parties to the conflict shall apply the relevant provisions of this Protocol to persons protected by this Part who may be received or interned within their territory, and to any dead of the Parties to that conflict whom they may find.

Art 20. - Prohibition of reprisals

Reprisals against the persons and objects protected by this Part are prohibited.

## SECTION II. MEDICAL TRANSPORTATION

Art 21. Medical vehicles

Medical vehicles shall be respected and protected in the same way as mobile medical units under the Conventions and this Protocol.

Art 22. Hospital ships and coastal rescue craft

1. The provisions of the Conventions relating to:

(a) vessels described in Articles 22, 24, 25 and 27 of the Second Convention,

(b) their lifeboats and small craft,

(c) their personnel and crews, and

(d) the wounded; sick and shipwrecked on board. shall also apply where these vessels carry civilian wounded, sick and shipwrecked who do not belong to any of the categories mentioned in Article 13 of the Second Convention. Such civilians shall not, however, be subject to surrender to any Party which is not their own, or to capture at sea. If they find themselves in the power of a Party to the conflict other than their own they shall be covered by the Fourth Convention and by this Protocol.

2. The protection provided by the Conventions to vessels described in Article 25 of the Second Convention shall extend to hospital ships made available for humanitarian purposes to a Party to the conflict:

(a) by a neutral or other State which is not a Party to that conflict; or

(b) by an impartial international humanitarian organization, provided that, in either case, the requirements set out in that Article are complied with.

3. Small craft described in Article 27 of the Second Convention shall be protected, even if the notification envisaged by that Article has not been made. The Parties to the conflict are, nevertheless, invited to inform each other of any details of such craft which will facilitate their identification and recognition.

#### Art 23. Other medical ships and craft

1. Medical ships and craft other than those referred to in Article 22 of this Protocol and Article 38 of the Second Convention shall, whether at sea or in other waters, be respected and protected in the same way as mobile medical units under the Conventions and this Protocol. Since this protection can only be effective if they can be identified and recognized as medical ships or craft, such vessels should be marked with the distinctive emblem and as far as possible comply with the second paragraph of Article 43 of the Second Convention.

2. The ships and craft referred to in paragraph 1 shall remain subject to the laws of war. Any warship on the surface able immediately to enforce its command may order them to stop, order them off, or make them take a certain course, and they shall obey every such command. Such ships and craft may not in any other way be diverted from their medical mission so long as they are needed for the wounded, sick and shipwrecked on board.

3. The protection provided in paragraph 1 shall cease only under the conditions set out in Articles 34 and 35 of the Second Convention. A clear refusal to obey a command given in accordance with paragraph 2 shall be an act harmful to the enemy under Article 34 of the Second Convention.

4. A Party to the conflict may notify any adverse Party as far in advance of sailing as possible of the name, description, expected time of sailing, course and estimated speed of the medical ship or craft, particularly in the case of ships of over 2,000 gross tons, and may provide any other information which would facilitate identification and recognition. The adverse Party shall acknowledge receipt of such information.

5. The provisions of Article 37 of the Second Convention shall apply to medical and religious personnel in such ships and craft.

6. The provisions of the Second Convention shall apply to the wounded, sick and shipwrecked belonging to the categories referred to in Article 13

of the Second Convention and in Article 44 of this Protocol who may be on board such medical ships and craft. Wounded, sick and shipwrecked civilians who do not belong to any of the categories mentioned in Article 13 of the Second Convention shall not be subject, at sea, either to surrender to any Party which is not their own, or to removal from such ships or craft; if they find themselves in the power of a Party to the conflict other than their own, they shall be covered by the Fourth Convention and by this Protocol.

#### Art 24. Protection of medical Aircraft

Medical aircraft shall be respected and protected, subject to the provisions of this Part.

Art 25. Medical aircraft in areas not controlled by an adverse Party In and over land areas physically controlled by friendly forces, or in and over sea areas not physically controlled by an adverse Party, the respect and protection of medical aircraft of a Party to the conflict is not dependent on any agreement with an adverse Party. For greater safety, however, a Party to the conflict operating its medical aircraft in these areas may notify the adverse Party, as provided in Article 29, in particular when such aircraft are making flights bringing them within range of surface-to-air weapons systems of the adverse Party.

#### Art 26. Medical aircraft in contact or similar zones

1. In and over those parts of the contact zone which are physically controlled by friendly forces and in and over those areas the physical control of which is not clearly established, protection for medical aircraft can be fully effective only by prior agreement between the competent military authorities of the Parties to the conflict, as provided for in Article 29. Although, in the absence of such an agreement, medical aircraft operate at their own risk, they shall nevertheless be respected after they have been recognized as such.

2. "Contact zone" means any area on land where the forward elements of opposing forces are in contact with each other, especially where they are exposed to direct fire from the ground.

#### Art 27. Medical aircraft in areas controlled by an adverse Party

1. The medical aircraft of a Party to the conflict shall continue to be protected while flying over land or sea areas physically controlled by an adverse Party, provided that prior agreement to such flights has been obtained from the competent authority of that adverse Party.

2. A medical aircraft which flies over an area physically controlled by an adverse Party without, or in deviation from the terms of, an agreement provided for in paragraph 1, either through navigational error or because of an emergency affecting the safety of the flight, shall make every effort to identify itself and to inform the adverse Party of the circumstances. As soon as such medical aircraft has been recognized by the adverse Party, that Party shall make all reasonable efforts to give the order to land or to alight on water, referred to in Article 30, paragraph 1, or to take other measures to safeguard its own interests, and, in either case, to allow the aircraft time for compliance, before resorting to an attack against the aircraft.

#### Art 28. Restrictions on operations of medical aircraft

1. The Parties to the conflict are prohibited from using their medical aircraft to attempt to acquire any military advantage over an adverse Party. The presence of medical aircraft shall not be used in an attempt to render military objectives immune from attack.

2. Medical aircraft shall not be used to collect or transmit intelligence data and shall not carry any equipment intended for such purposes. They are prohibited from carrying any persons or cargo not included within the definition in Article 8 (6). The carrying on board of the personal effects of the occupants or of equipment intended solely to facilitate navigation, communication or identification shall not be considered as prohibited,

3. Medical aircraft shall not carry any armament except small arms and ammunition taken from the wounded, sick and shipwrecked on board and not yet handed to the proper service, and such light individual weapons as may be necessary to enable the medical personnel on board to defend themselves and the wounded, sick and shipwrecked in their charge.

4. While carrying out the flights referred to in Articles 26 and 27, medical aircraft shall not, except by prior agreement with the adverse Party, be used to search for the wounded, sick and shipwrecked.

#### Art 29. Notifications and agreements concerning medical aircraft

1. Notifications under Article 25, or requests for prior agreement under Articles 26, 27, 28, paragraph 4, or 31 shall state the proposed number of medical aircraft, their flight plans and means of identification, and shall be understood to mean that every flight will be carried out in compliance with Article 28.

2 A Party which receives a notification given under Article 25 shall at once acknowledge receipt of such notification. 3. A Party which receives a

(4) "Matériel" of civil defence organizations means equipment, supplies and transports used by these organizations for the performance of the tasks mentioned under (1).

#### Art 62. General protection

1. Civilian civil defence organizations and their personnel shall be respected and protected, subject to the provisions of this Protocol, particularly the provisions of this section. They shall be entitled to perform their civil defence tasks except in case of imperative military necessity.

2. The provisions of paragraph 1 shall also apply to civilians who, although not members of civilian civil defence organizations, respond to an appeal from the competent authorities and perform civil defence tasks under their control.

3. Buildings and matériel used for civil defence purposes and shelters provided for the civilian population are covered by Article 52. Objects used for civil defence purposes may not be destroyed or diverted from their proper use except by the Party to which they belong.

#### Art 63. Civil defence in occupied territories

1. In occupied territories, civilian civil defence organizations shall receive from the authorities the facilities necessary for the performance of their tasks. In no Circumstances shall their personnel be compelled to perform activities which would interfere with the proper performance of these tasks. The Occupying Power shall not change the structure or personnel of such organizations in any way which might jeopardize the efficient performance of their mission. These organizations shall not be required to give priority to the nationals or interests of that Power.

2. The Occupying Power shall not compel, coerce or induce civilian civil defence organizations to perform their tasks in any manner prejudicial to the interests of the civilian population.

3. The Occupying Power may disarm civil defence personnel for reasons of security.

4. The Occupying Power shall neither divert from their proper use nor requisition buildings or matériel belonging to or used by civil defence organizations if such diversion or requisition would be harmful to the civilian population.

5. Provided that the general rule in paragraph 4 continues to be observed, the Occupying Power may requisition or divert these resources, subject to the following particular conditions:

(a) that the buildings or matériel are necessary for other needs of the civilian population; and

(b) that the requisition or diversion continues only while such necessity exists.

6. The Occupying Power shall neither divert nor requisition shelters provided for the use of the civilian population or needed by such population.

Art 64. Civilian civil defence organizations of neutral or other States not Parties to the conflict and international co-ordinating organizations

1. Articles 62, 63, 65 and 66 shall also apply to the personnel and matériel of civilian civil defence organizations of neutral or other States not Parties to the conflict which perform civil defence tasks mentioned in Article 61 in the territory of a Party to the conflict, with the consent and under the control of that Party. Notification of such assistance shall be given as soon as possible to any adverse Party concerned. In no circumstances shall this activity be deemed to be an interference in the conflict. This activity should, however, be performed with due regard to the security interests of the Parties to the conflict concerned.

2. The Parties to the conflict receiving the assistance referred to in paragraph 1 and the High Contracting Parties granting it should facilitate international co-ordination of such civil defence actions when appropriate. In such cases the relevant international organizations are covered by the provisions of this Chapter.

3. In occupied territories, the Occupying Power may only exclude or restrict the activities of civilian civil defence organizations of neutral or other States not Parties to the conflict and of international co-ordinating organizations if it can ensure the adequate performance of civil defence tasks from its own resources or those of the occupied territory.

Art 65. Cessation of protection

1. The protection to which civilian civil defence organizations, their personnel, buildings, shelters and matériel are entitled shall not cease unless they commit or are used to commit, outside their proper tasks, acts harmful to the enemy. Protection may, however, cease only after a



warning has been given setting, whenever appropriate, a reasonable time-limit, and after such warning has remained unheeded.

2. The following shall not be considered as acts harmful to the enemy:

(a) that civil defence tasks are carried out under the direction or control of military authorities;

(b) that civilian civil defence personnel co-operate with military personnel in the performance of civil defence tasks, or that some military personnel are attached to civilian civil defence organizations;

(c) that the performance of civil defence tasks may incidentally benefit military victims, particularly those who are hors de combat.

3. It shall also not be considered as an act harmful to the enemy that civilian civil defence personnel bear light individual weapons for the purpose of maintaining order or for self-defence. However, in areas where land fighting is taking place or is likely to take place, the Parties to the conflict shall undertake the appropriate measures to limit these weapons to handguns, such as pistols or revolvers, in order to assist in distinguishing between civil defence personnel and combatants. Although civil defence personnel bear other light individual weapons in such areas, they shall nevertheless be respected and protected as soon as they have been recognized as such.

4. The formation of civilian civil defence organizations along military lines, and compulsory service in them, shall also not deprive them of the protection conferred by this Chapter.

#### Art 66. Identification

1. Each Party to the conflict shall endeavour to ensure that its civil defence organizations, their personnel, buildings and matériel are identifiable while they are exclusively devoted to the performance of civil defence tasks. Shelters provided for the civilian population should be similarly identifiable.

2. Each Party to the conflict shall also endeavour to adopt and implement methods and procedures which will make it possible to recognize civilian shelters as well as civil defence personnel, buildings and matériel on which the international distinctive sign of civil defence is displayed.

3. In occupied territories and in areas where fighting is taking place or is likely to take place, civilian civil defence personnel should be recognizable by the international distinctive sign of civil defence and by an identity card certifying their status.

4. The international distinctive sign of civil defence is an equilateral blue triangle on an orange ground when used for the protection of civil defence organizations, their personnel, buildings and matériel and for civilian shelters.

5. In addition to the distinctive sign, Parties to the conflict may agree upon the use of distinctive signals for civil defence identification purposes.

6. The application of the provisions of paragraphs 1 to 4 is governed by Chapter V of Annex I to this Protocol.

7. In time of peace, the sign described in paragraph 4 may, with the consent of the competent national authorities, be used for civil defence identification purposes.

8. The High Contracting Parties and the Parties to the conflict shall take the measures necessary to supervise the display of the international distinctive sign of civil defence and to prevent and repress any misuse thereof.

9. The identification of civil defence medical and religious personnel, medical units and medical transports is also governed by Article 18.

Art 67. Members of the armed forces and military units assigned to civil defence organizations

1. Members of the armed forces and military units assigned to civil defence organizations shall be respected and protected, provided that:

(a) such personnel and such units are permanently assigned and exclusively devoted to the performance of any of the tasks mentioned in Article 61;

(b) if so assigned, such personnel do not perform any other military duties during the conflict;

(c) such personnel are clearly distinguishable from the other members of the armed forces by prominently displaying the international distinctive sign of civil defence, which shall be as large as appropriate, and such personnel are provided with the identity card referred to in Chapter V of Annex I to this Protocol certifying their status;

(d) such personnel and such units are equipped only with light individual weapons for the purpose of maintaining order or for self-defence. The provisions of Article 65, paragraph 3 shall also apply in this case;

(e) such personnel do not participate directly in hostilities, and do not commit, or are not used to commit, outside their civil defence tasks, acts harmful to the adverse Party

(f) such personnel and such units perform their civil defence tasks only within the national territory of their Party.

The non-observance of the conditions stated in (e) above by any member of the armed forces who is bound by the conditions prescribed in (a) and (b) above is prohibited.

2. Military personnel serving within civil defence organizations shall, if they fall into the power of an adverse Party, be prisoners of war. In occupied territory they may, but only in the interest of the civilian population of that territory, be employed on civil defence tasks in so far as the need arises, provided however that, if such work is dangerous, they volunteer for such tasks.

3. The buildings and major items of equipment and transports of military units assigned to civil defence organizations shall be clearly marked with the international distinctive sign of civil defence. This distinctive sign shall be as large as appropriate.

4. The matériel and buildings of military units permanently assigned to civil defence organizations and exclusively devoted to the performance of civil defence tasks shall, if they fall into the hands of an adverse Party, remain subject to the laws of war. They may not be diverted from their civil defence purpose so long as they are required for the performance of civil defence tasks, except in case of imperative military necessity, unless previous arrangements have been made for adequate provision for the needs of the civilian population.

## Section II. Relief in Favour of the Civilian Population

### Art 68. Field of application

The provisions of this Section apply to the civilian population as defined in this Protocol and are supplementary to Articles 23, 55, 59, 60, 61 and 62 and other relevant provisions of the Fourth Convention.

### Art 69. Basic needs in occupied territories

1. In addition to the duties specified in Article 55 of the Fourth Convention concerning food and medical supplies, the Occupying Power shall, to the fullest extent of the means available to it and without any adverse distinction, also ensure the provision of clothing, bedding, means of

shelter, other supplies essential to the survival of the civilian population of the occupied territory and objects necessary for religious worship.

2. Relief actions for the benefit of the civilian population of occupied territories are governed by Articles 59, 60, 61, 62, 108, 109, 110 and 111 of the Fourth Convention, and by Article 71 of this Protocol, and shall be implemented without delay.

#### Art 70. Relief actions

1. If the civilian population of any territory under the control of a Party to the conflict, other than occupied territory, is not adequately provided with the supplies mentioned in Article 69, relief actions which are humanitarian and impartial in character and conducted without any adverse distinction shall be undertaken, subject to the agreement of the Parties concerned in such relief actions. Offers of such relief shall not be regarded as interference in the armed conflict or as unfriendly acts. In the distribution of relief consignments, priority shall be given to those persons, such as children, expectant mothers, maternity cases and nursing mothers, who, under the Fourth Convention or under this Protocol, are to be accorded privileged treatment or special protection.

2. The Parties to the conflict and each High Contracting Party shall allow and facilitate rapid and unimpeded passage of all relief consignments, equipment and personnel provided in accordance with this Section, even if such assistance is destined for the civilian population of the adverse Party.

3. The Parties to the conflict and each High Contracting Party which allows the passage of relief consignments, equipment and personnel in accordance with paragraph 2:

(a) shall have the right to prescribe the technical arrangements, including search, under which such passage is permitted;

(b) may make such permission conditional on the distribution of this assistance being made under the local supervision of a Protecting Power;

(c) shall, in no way whatsoever, divert relief consignments from the purpose for which they are intended nor delay their forwarding, except in cases of urgent necessity in the interest of the civilian population concerned.

4. The Parties to the conflict shall protect relief consignments and facilitate their rapid distribution.

5. The Parties to the conflict and each High Contracting Party concerned shall encourage and facilitate effective international co-ordination of the relief actions referred to in paragraph 1.

#### Art 71. Personnel participating in relief actions

1. Where necessary, relief personnel may form part of the assistance provided in any relief action, in particular for the transportation and distribution of relief consignments; the participation of such personnel shall be subject to the approval of the Party in whose territory they will carry out their duties.

2. Such personnel shall be respected and protected.

3. Each Party in receipt of relief consignments shall, to the fullest extent practicable, assist the relief personnel referred to in paragraph 1 in carrying out their relief mission. Only in case of imperative military necessity may the activities of the relief personnel be limited or their movements temporarily restricted.

4. Under no circumstances may relief personnel exceed the terms of their mission under this Protocol. In particular they shall take account of the security requirements of the Party in whose territory they are carrying out their duties. The mission of any of the personnel who do not respect these conditions may be terminated.

### Section III. Treatment of Persons in the Power of a Party to the Conflict

#### Chapter I. Field of application and protection of persons and objects

##### Art 72. Field of application

The provisions of this Section are additional to the rules concerning humanitarian protection of civilians and civilian objects in the power of a Party to the conflict contained in the Fourth Convention, particularly Parts I and III thereof, as well as to other applicable rules of international law relating to the protection of fundamental human rights during international armed conflict.

##### Art 73. Refugees and stateless persons

Persons who, before the beginning of hostilities, were considered as stateless persons or refugees under the relevant international instruments accepted by the Parties concerned or under the national legislation of the State of refuge or State of residence shall be protected persons within the

meaning of Parts I and III of the Fourth Convention, in all circumstances and without any adverse distinction.

#### Art 74. Reunion of dispersed families

The High Contracting Parties and the Parties to the conflict shall facilitate in every possible way the reunion of families dispersed as a result of armed conflicts and shall encourage in particular the work of the humanitarian organizations engaged in this task in accordance with the provisions of the Conventions and of this Protocol and in conformity with their respective security regulations.

#### Art 75. Fundamental guarantees

1. In so far as they are affected by a situation referred to in Article 1 of this Protocol, persons who are in the power of a Party to the conflict and who do not benefit from more favourable treatment under the Conventions or under this Protocol shall be treated humanely in all circumstances and shall enjoy, as a minimum, the protection provided by this Article without any adverse distinction based upon race, colour, sex, language, religion or belief, political or other opinion, national or social origin, wealth, birth or other status, or on any other similar criteria. Each Party shall respect the person, honour, convictions and religious practices of all such persons.

2. The following acts are and shall remain prohibited at any time and in any place whatsoever, whether committed by civilian or by military agents:

(a) violence to the life, health, or physical or mental well-being of persons, in particular:

(i) murder;

(ii) torture of all kinds, whether physical or mental;

(iii) corporal punishment; and

(iv) mutilation;

(b) outrages upon personal dignity, in particular humiliating and degrading treatment, enforced prostitution and any form of indecent assault;

(c) the taking of hostages;

(d) collective punishments; and

(e) threats to commit any of the foregoing acts.

3. Any person arrested, detained or interned for actions related to the armed conflict shall be informed promptly, in a language he understands, of the reasons why these measures have been taken. Except in cases of arrest or detention for penal offences, such persons shall be released with the minimum delay possible and in any event as soon as the circumstances justifying the arrest, detention or internment have ceased to exist.

4. No sentence may be passed and no penalty may be executed on a person found guilty of a penal offence related to the armed conflict except pursuant to a conviction pronounced by an impartial and regularly constituted court respecting the generally recognized principles of regular judicial procedure, which include the following:

(a) the procedure shall provide for an accused to be informed without delay of the particulars of the offence alleged against him and shall afford the accused before and during his trial all necessary rights and means of defence;

(b) no one shall be convicted of an offence except on the basis of individual penal responsibility;

(c) no one shall be accused or convicted of a criminal offence on account or any act or omission which did not constitute a criminal offence under the national or international law to which he was subject at the time when it was committed; nor shall a heavier penalty be imposed than that which was applicable at the time when the criminal offence was committed; if, after the commission of the offence, provision is made by law for the imposition of a lighter penalty, the offender shall benefit thereby;

(d) anyone charged with an offence is presumed innocent until proved guilty according to law;

(e) anyone charged with an offence shall have the right to be tried in his presence;

(f) no one shall be compelled to testify against himself or to confess guilt;

(g) anyone charged with an offence shall have the right to examine, or have examined, the witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;

(h) no one shall be prosecuted or punished by the same Party for an offence in respect of which a final judgement acquitting or convicting that

person has been previously pronounced under the same law and judicial procedure;

(i) anyone prosecuted for an offence shall have the right to have the judgement pronounced publicly; and

(j) a convicted person shall be advised on conviction of his judicial and other remedies and of the time-limits within which they may be exercised.

5. Women whose liberty has been restricted for reasons related to the armed conflict shall be held in quarters separated from men's quarters. They shall be under the immediate supervision of women. Nevertheless, in cases where families are detained or interned, they shall, whenever possible, be held in the same place and accommodated as family units.

6. Persons who are arrested, detained or interned for reasons related to the armed conflict shall enjoy the protection provided by this Article until their final release, repatriation or re-establishment, even after the end of the armed conflict.

7. In order to avoid any doubt concerning the prosecution and trial of persons accused of war crimes or crimes against humanity, the following principles shall apply:

(a) persons who are accused of such crimes should be submitted for the purpose of prosecution and trial in accordance with the applicable rules of international law; and

(b) any such persons who do not benefit from more favourable treatment under the Conventions or this Protocol shall be accorded the treatment provided by this Article, whether or not the crimes of which they are accused constitute grave breaches of the Conventions or of this Protocol.

8. No provision of this Article may be construed as limiting or infringing any other more favourable provision granting greater protection, under any applicable rules of international law, to persons covered by paragraph 1

## Chapter II. Measures in favour of women and children

### Art 76. Protection of women

1. Women shall be the object of special respect and shall be protected in particular against rape, forced prostitution and any other form of indecent assault.



2. Pregnant women and mothers having dependent infants who are arrested, detained or interned for reasons related to the armed conflict, shall have their cases considered with the utmost priority.

3. To the maximum extent feasible, the Parties to the conflict shall endeavour to avoid the pronouncement of the death penalty on pregnant women or mothers having dependent infants, for an offence related to the armed conflict. The death penalty for such offences shall not be executed on such women.

#### Art 77. Protection of children

1. Children shall be the object of special respect and shall be protected against any form of indecent assault. The Parties to the conflict shall provide them with the care and aid they require, whether because of their age or for any other reason.

2. The Parties to the conflict shall take all feasible measures in order that children who have not attained the age of fifteen years do not take a direct part in hostilities and, in particular, they shall refrain from recruiting them into their armed forces. In recruiting among those persons who have attained the age of fifteen years but who have not attained the age of eighteen years the Parties to the conflict shall endeavour to give priority to those who are oldest.

3. If, in exceptional cases, despite the provisions of paragraph 2, children who have not attained the age of fifteen years take a direct part in hostilities and fall into the power of an adverse Party, they shall continue to benefit from the special protection accorded by this Article, whether or not they are prisoners of war.

4. If arrested, detained or interned for reasons related to the armed conflict, children shall be held in quarters separate from the quarters of adults, except where families are accommodated as family units as provided in Article 75, paragraph 5.

5. The death penalty for an offence related to the armed conflict shall not be executed on persons who had not attained the age of eighteen years at the time the offence was committed.

#### Art 78. Evacuation of children

1. No Party to the conflict shall arrange for the evacuation of children, other than its own nationals, to a foreign country except for a temporary evacuation where compelling reasons of the health or medical treatment of the children or, except in occupied territory, their safety, so require. Where

the parents or legal guardians can be found, their written consent to such evacuation is required. If these persons cannot be found, the written consent to such evacuation of the persons who by law or custom are primarily responsible for the care of the children is required. Any such evacuation shall be supervised by the Protecting Power in agreement with the Parties concerned, namely, the Party arranging for the evacuation, the Party receiving the children and any Parties whose nationals are being evacuated. In each case, all Parties to the conflict shall take all feasible precautions to avoid endangering the evacuation.

2. Whenever an evacuation occurs pursuant to paragraph 1, each child's education, including his religious and moral education as his parents desire, shall be provided while he is away with the greatest possible continuity.

3. With a view to facilitating the return to their families and country of children evacuated pursuant to this Article, the authorities of the Party arranging for the evacuation and, as appropriate, the authorities of the receiving country shall establish for each child a card with photographs, which they shall send to the Central Tracing Agency of the International Committee of the Red Cross. Each card shall bear, whenever possible, and whenever it involves no risk of harm to the child, the following information:

- (a) surname(s) of the child;
- (b) the child's first name(s);
- (c) the child's sex;
- (d) the place and date of birth (or, if that date is not known, the approximate age);
- (e) the father's full name;
- (f) the mother's full name and her maiden name;
- (g) the child's next-of-kin;
- (h) the child's nationality;
- (i) the child's native language, and any other languages he speaks;
- (j) the address of the child's family;
- (k) any identification number for the child;

- (l) the child's state of health;
- (m) the child's blood group;
- (n) any distinguishing features;
- (o) the date on which and the place where the child was found;
- (p) the date on which and the place from which the child left the country;
- (q) the child's religion, if any;
- (r) the child's present address in the receiving country;
- (s) should the child die before his return, the date, place and circumstances of death and place of interment.

### Chapter III. Journalists

#### Art 79. Measures or protection for journalists

1. Journalists engaged in dangerous professional missions in areas of armed conflict shall be considered as civilians within the meaning of Article 50, paragraph 1.
2. They shall be protected as such under the Conventions and this Protocol, provided that they take no action adversely affecting their status as civilians, and without prejudice to the right of war correspondents accredited to the armed forces to the status provided for in Article 4 (A) (4) of the Third Convention.
3. They may obtain an identity card similar to the model in Annex II of this Protocol. This card, which shall be issued by the government of the State of which the Journalist is a national or in whose territory he resides or in which the news medium employing him is located, shall attest to his status as a journalist.

### Part V. Execution of the Conventions and of its Protocols

#### Section I. General Provisions

#### Art 80. Measures for execution

1. The High Contracting Parties and the Parties to the conflict shall without delay take all necessary measures for the execution of their obligations under the Conventions and this Protocol.

2. The High Contracting Parties and the Parties to the conflict shall give orders and instructions to ensure observance of the Conventions and this Protocol, and shall supervise their execution.

#### Art 81. Activities of the Red Cross and other humanitarian organizations

1. The Parties to the conflict shall grant to the International Committee of the Red Cross all facilities, within their power so as to enable it to carry out the humanitarian functions assigned to it by the Conventions and this Protocol in order to ensure protection and assistance to the victims of conflicts; the International Committee of the Red Cross may also carry out any other humanitarian activities in favour of these victims, subject to the consent of the Parties to the conflict concerned.

2. The Parties to the conflict shall grant to their respective Red Cross (Red Crescent, Red Lion and Sun) organizations the facilities necessary for carrying out their humanitarian activities in favour of the victims of the conflict, in accordance with the provisions of the Conventions and this Protocol and the fundamental principles of the Red Cross as formulated by the International Conferences of the Red Cross.

3. The High Contracting Parties and the Parties to the conflict shall facilitate in every possible way the assistance which Red Cross (Red Crescent, Red Lion and Sun) organizations and the League of Red Cross Societies extend to the victims of conflicts in accordance with the provisions of the Conventions and this Protocol and with the fundamental principles of the Red Cross as formulated by the International Conferences of the Red Cross.

4. The High Contracting Parties and the Parties to the conflict shall, as far as possible, make facilities similar to those mentioned in paragraphs 2 and 3 available to the other humanitarian organizations referred to in the Conventions and this Protocol which are duly authorized by the respective Parties to the conflict and which perform their humanitarian activities in accordance with the provisions of the Conventions and this Protocol.

#### Art 82. Legal advisers in armed forces

The High Contracting Parties at all times, and the Parties to the conflict in time of armed conflict, shall ensure that legal advisers are available, when necessary, to advise military commanders at the appropriate level on the application of the Conventions and this Protocol and on the appropriate instruction to be given to the armed forces on this subject.

#### Art 83. Dissemination

1. The High Contracting Parties undertake, in time of peace as in time of armed conflict, to disseminate the Conventions and this Protocol as widely as possible in their respective countries and, in particular, to include the study thereof in their programmes of military instruction and to encourage the study thereof by the civilian population, so that those instruments may become known to the armed forces and to the civilian population.

2. Any military or civilian authorities who, in time of armed conflict, assume responsibilities in respect of the application of the Conventions and this Protocol shall be fully acquainted with the text thereof.

#### Art 84. Rules of application

The High Contracting Parties shall communicate to one another, as soon as possible, through the depositary and, as appropriate, through the Protecting Powers, their official translations of this Protocol, as well as the laws and regulations which they may adopt to ensure its application.

### Section II. Repression of Breaches of the Conventions and of this Protocol

#### Article 85 - Repression of breaches of this Protocol

1. The provisions of the Conventions relating to the repression of breaches and grave breaches, supplemented by this Section, shall apply to the repression of breaches and grave breaches of this Protocol.

2. Acts described as grave breaches in the Conventions are grave breaches of this Protocol if committed against persons in the power of an adverse Party protected by Articles 44, 45 and 73 of this Protocol, or against the wounded, sick and shipwrecked of the adverse Party who are protected by this Protocol, or against those medical or religious personnel, medical units or medical transports which are under the control of the adverse Party and are protected by this Protocol.

3. In addition to the grave breaches defined in Article 11, the following acts shall be regarded as grave breaches of this Protocol, when committed wilfully, in violation of the relevant provisions of this Protocol, and causing death or serious injury to body or health:

(a) making the civilian population or individual civilians the object of attack;

(b) launching an indiscriminate attack affecting the civilian population or civilian objects in the knowledge that such attack will cause excessive loss of life, injury to civilians or damage to civilian objects, as defined in Article 57, paragraph 2 (a)(iii);

(c) launching an attack against works or installations containing dangerous forces in the knowledge that such attack will cause excessive loss of life, injury to civilians or damage to civilian objects, as defined in Article 57, paragraph 2 (a)(iii);

(d) making non-defended localities and demilitarized zones the object of attack;

(e) making a person the object of attack in the knowledge that he is hors de combat;

(f) the perfidious use, in violation of Article 37, of the distinctive emblem of the red cross, red crescent or red lion and sun or of other protective signs recognized by the Conventions or this Protocol.

4. In addition to the grave breaches defined in the preceding paragraphs and in the Conventions, the following shall be regarded as grave breaches of this Protocol, when committed wilfully and in violation of the Conventions or the Protocol:

(a) the transfer by the occupying Power of parts of its own civilian population into the territory it occupies, or the deportation or transfer of all or parts of the population of the occupied territory within or outside this territory, in violation of Article 49 of the Fourth Convention;

(b) unjustifiable delay in the repatriation of prisoners of war or civilians;

(c) practices of apartheid and other inhuman and degrading practices involving outrages upon personal dignity, based on racial discrimination;

(d) making the clearly-recognized historic monuments, works of art or places of worship which constitute the cultural or spiritual heritage of peoples and to which special protection has been given by special arrangement, for example, within the framework of a competent international organization, the object of attack, causing as a result extensive destruction thereof, where there is no evidence of the violation by the adverse Party of Article 53, subparagraph (b), and when such historic monuments, works of art and places of worship are not located in the immediate proximity of military objectives;

(e) depriving a person protected by the Conventions or referred to in paragraph 2 of this Article of the rights of fair and regular trial.

5. Without prejudice to the application of the Conventions and of this Protocol, grave breaches of these instruments shall be regarded as war crimes.

#### Art 86. Failure to act

1. The High Contracting Parties and the Parties to the conflict shall repress grave breaches, and take measures necessary to suppress all other breaches, of the Conventions or of this Protocol which result from a failure to act when under a duty to do so.

2. The fact that a breach of the Conventions or of this Protocol was committed by a subordinate does not absolve his superiors from penal or disciplinary responsibility, as the case may be, if they knew, or had information which should have enabled them to conclude in the circumstances at the time, that he was committing or was going to commit such a breach and if they did not take all feasible measures within their power to prevent or repress the breach.

#### Art 87. Duty of commanders

1. The High Contracting Parties and the Parties to the conflict shall require military commanders, with respect to members of the armed forces under their command and other persons under their control, to prevent and, where necessary, to suppress and to report to competent authorities breaches of the Conventions and of this Protocol.

2. In order to prevent and suppress breaches, High Contracting Parties and Parties to the conflict shall require that, commensurate with their level of responsibility, commanders ensure that members of the armed forces under their command are aware of their obligations under the Conventions and this Protocol.

3. The High Contracting Parties and Parties to the conflict shall require any commander who is aware that subordinates or other persons under his control are going to commit or have committed a breach of the Conventions or of this Protocol, to initiate such steps as are necessary to prevent such violations of the Conventions or this Protocol, and, where appropriate, to initiate disciplinary or penal action against violators thereof.

#### Art 88. Mutual assistance in criminal matters

1. The High Contracting Parties shall afford one another the greatest measure of assistance in connexion with criminal proceedings brought in respect of grave breaches of the Conventions or of this Protocol.

2. Subject to the rights and obligations established in the Conventions and in Article 85, paragraph 1 of this Protocol, and when circumstances permit, the High Contracting Parties shall co-operate in the matter of extradition.

They shall give due consideration to the request of the State in whose territory the alleged offence has occurred.

3. The law of the High Contracting Party requested shall apply in all cases. The provisions of the preceding paragraphs shall not, however, affect the obligations arising from the provisions of any other treaty of a bilateral or multilateral nature which governs or will govern the whole or part of the subject of mutual assistance in criminal matters.

#### Art 89. Co-operation

In situations of serious violations of the Conventions or of this Protocol, the High Contracting Parties undertake to act jointly or individually, in co-operation with the United Nations and in conformity with the United Nations Charter.

#### Art 90. International Fact-Finding Commission

1.(a) An International Fact-Finding Commission (hereinafter referred to as "the Commission") consisting of 15 members of high moral standing and acknowledged impartiality shall be established;

(b) When not less than 20 High Contracting Parties have agreed to accept the competence of the Commission pursuant to paragraph 2, the depositary shall then, and at intervals of five years thereafter, convene a meeting of representatives of those High Contracting Parties for the purpose of electing the members of the Commission. At the meeting, the representatives shall elect the members of the Commission by secret ballot from a list of persons to which each of those High Contracting Parties may nominate one person;

(c) The members of the Commission shall serve in their personal capacity and shall hold office until the election of new members at the ensuing meeting;

(d) At the election, the High Contracting Parties shall ensure that the persons to be elected to the Commission individually possess the qualifications required and that, in the Commission as a whole, equitable geographical representation is assured;

(e) In the case of a casual vacancy, the Commission itself shall fill the vacancy, having due regard to the provisions of the preceding subparagraphs;

(f) The depositary shall make available to the Commission the necessary administrative facilities for the performance of its functions.



2.(a) The High Contracting Parties may at the time of signing, ratifying or acceding to the Protocol, or at any other subsequent time, declare that they recognize ipso facto and without special agreement, in relation to any other High Contracting Party accepting the same obligation, the competence of the Commission to inquire into allegations by such other Party, as authorized by this Article;

(b) The declarations referred to above shall be deposited with the depositary, which shall transmit copies thereof to the High Contracting Parties;

(c) The Commission shall be competent to:

(i) inquire into any facts alleged to be a grave breach as defined in the Conventions and this Protocol or other serious violation of the Conventions or of this Protocol;

(ii) facilitate, through its good offices, the restoration of an attitude of respect for the Conventions and this Protocol;

(d) In other situations, the Commission shall institute an inquiry at the request of a Party to the conflict only with the consent of the other Party or Parties concerned;

(e) Subject to the foregoing provisions of this paragraph, the provisions of Article 52 of the First Convention, Article 53 of the Second Convention, Article 132 of the Third Convention and Article 149 of the Fourth Convention shall continue to apply to any alleged violation of the Conventions and shall extend to any alleged violation of this Protocol.

3. (a) Unless otherwise agreed by the Parties concerned, all inquiries shall be undertaken by a Chamber consisting of seven members appointed as follows:

(i) five members of the Commission, not nationals of any Party to the conflict, appointed by the President of the Commission on the basis of equitable representation of the geographical areas, after consultation with the Parties to the conflict;

(ii) two ad hoc members, not nationals of any Party to the conflict, one to be appointed by each side;

(b) Upon receipt of the request for an inquiry, the President of the Commission shall specify an appropriate time-limit for setting up a Chamber. If any ad hoc member has not been appointed within the time-limit, the President shall immediately appoint such additional member or

members of the Commission as may be necessary to complete the membership of the Chamber.

4.(a) The Chamber set up under paragraph 3 to undertake an inquiry shall invite the Parties to the conflict to assist it and to present evidence. The Chamber may also seek such other evidence as it deems appropriate and may carry out an investigation of the situation in loco;

(b) All evidence shall be fully disclosed to the Parties, which shall have the right to comment on it to the Commission;

(c) Each Party shall have the right to challenge such evidence.

5. (a) The Commission shall submit to the Parties a report on the findings of fact of the Chamber, with such recommendations as it may deem appropriate.

(b) If the Chamber is unable to secure sufficient evidence for factual and impartial findings, the Commission shall state the reasons for that inability;

(c) The Commission shall not report its findings publicly, unless all the Parties to the conflict have requested the Commission to do so.

6. The Commission shall establish its own rules, including rules for the presidency of the Commission and the presidency of the Chamber. Those rules shall ensure that the functions of the President of the Commission are exercised at all times and that, in the case of an inquiry, they are exercised by a person who is not a national of a Party to the conflict.

7. The administrative expenses of the Commission shall be met by contributions from the High Contracting Parties which made declarations under paragraph 2, and by voluntary contributions. The Party or Parties to the conflict requesting an inquiry shall advance the necessary funds for expenses incurred by a Chamber and shall be reimbursed by the Party or Parties against which the allegations are made to the extent of 50 per cent of the costs of the Chamber. Where there are counter-allegations before the Chamber each side shall advance 50 per cent of the necessary funds.

#### Art 91. Responsibility

A Party to the conflict which violates the provisions of the Conventions or of this Protocol shall, if the case demands, be liable to pay compensation. It shall be responsible for all acts committed by persons forming part of its armed forces.

## Part IV. Final Resolutions

### Art 92. Signature

This Protocol shall be open for signature by the Parties to the Conventions six months after the signing of the Final Act and will remain open for a period of twelve months.

### Art 93. Ratification

This Protocol shall be ratified as soon as possible. The instruments of ratification shall be deposited with the Swiss Federal Council, depositary of the Conventions.

### Art 94. Accession

This Protocol shall be open for accession by any Party to the Conventions which has not signed it. The instruments of accession shall be deposited with the depositary.

### Art 95.- Entry into force

1. This Protocol shall enter into force six months after two instruments of ratification or accession have been deposited.

2. For each Party to the Conventions thereafter ratifying or acceding to this Protocol, it shall enter into force six months after the deposit by such Party of its instrument of ratification or accession.

### Art 96. Treaty relations upon entry into force of this Protocol

1. When the Parties to the Conventions are also Parties to this Protocol, the Conventions shall apply as supplemented by this Protocol.

2. When one of the Parties to the conflict is not bound by this Protocol, the Parties to the Protocol shall remain bound by it in their mutual relations. They shall furthermore be bound by this Protocol in relation to each of the Parties which are not bound by it, if the latter accepts and applies the provisions thereof.

3. The authority representing a people engaged against a High Contracting Party in an armed conflict of the type referred to in Article 1, paragraph 4, may undertake to apply the Conventions and this Protocol in relation to that conflict by means of a unilateral declaration addressed to the depositary. Such declaration shall, upon its receipt by the depositary, have in relation to that conflict the following effects:

(a) the Conventions and this Protocol are brought into force for the said authority as a Party to the conflict with immediate effect;

(b) the said authority assumes the same rights and obligations as those which have been assumed by a High Contracting Party to the Conventions and this Protocol; and

(c) the Conventions and this Protocol are equally binding upon all Parties to the conflict.

#### Art 97. Amendment

1. Any High Contracting Party may propose amendments to this Protocol. The text of any proposed amendment shall be communicated to the depositary, which shall decide, after consultation with all the High Contracting Parties and the International Committee of the Red Cross, whether a conference should be convened to consider the proposed amendment.

2. The depositary shall invite to that conference all the High Contracting Parties as well as the Parties to the Conventions, whether or not they are signatories or this Protocol.

#### Art 98. Revision of Annex I

1. Not later than four years after the entry into force of this Protocol and thereafter at intervals of not less than four years, the International Committee of the Red Cross shall consult the High Contracting Parties concerning Annex I to this Protocol and, if it considers it necessary, may propose a meeting of technical experts to review Annex I and to propose such amendments to it as may appear to be desirable. Unless, within six months of the communication of a proposal for such a meeting to the High Contracting Parties, one third of them object, the International Committee of the Red Cross shall convene the meeting, inviting also observers of appropriate international organizations. Such a meeting shall also be convened by the International Committee of the Red Cross at any time at the request of one third of the High Contracting Parties.

2. The depositary shall convene a conference of the High Contracting Parties and the Parties to the Conventions to consider amendments proposed by the meeting of technical experts if, after that meeting, the International Committee of the Red Cross or one third of the High Contracting Parties so request.

3. Amendments to Annex I may be adopted at such a conference by a two-thirds majority of the High Contracting Parties present and voting.

4. The depositary shall communicate any amendment so adopted to the High Contracting Parties and to the Parties to the Conventions. The amendment shall be considered to have been accepted at the end of a period of one year after it has been so communicated, unless within that period a declaration of non-acceptance of the amendment has been communicated to the depositary by not less than one third of the High Contracting Parties.

5. An amendment considered to have been accepted in accordance with paragraph 4 shall enter into force three months after its acceptance for all High Contracting Parties other than those which have made a declaration of non-acceptance in accordance with that paragraph. Any Party making such a declaration may at any time withdraw it and the amendment shall then enter into force for that Party three months thereafter.

6. The depositary shall notify the High Contracting Parties and the Parties to the Conventions of the entry into force of any amendment, of the Parties bound thereby, of the date of its entry into force in relation to each Party, of declarations of non-acceptance made in accordance with paragraph 4, and of withdrawals of such declarations.

#### Article 99 – Denunciation

1. In case a High Contracting Party should denounce this Protocol, the denunciation shall only take effect one year after receipt of the instrument of denunciation. If, however, on the expiry of that year the denouncing Party is engaged in one of the situations referred to in Article I, the denunciation shall not take effect before the end of the armed conflict or occupation and not, in any case, before operations connected with the final release, repatriation or re-establishment of the persons protected by the Convention or this Protocol have been terminated.

2. The denunciation shall be notified in writing to the depositary, which shall transmit it to all the High Contracting Parties.

3. The denunciation shall have effect only in respect of the denouncing Party.

4. Any denunciation under paragraph 1 shall not affect the obligations already incurred, by reason of the armed conflict, under this Protocol by such denouncing Party in respect of any act committed before this denunciation becomes effective.

#### Article 100 – Notifications

The depositary shall inform the High Contracting Parties as well as the Parties to the Conventions, whether or not they are signatories of this Protocol, of:

- (a) signatures affixed to this Protocol and the deposit of instruments of ratification and accession under Articles 93 and 94;
- (b) the date of entry into force of this Protocol under Article 95;
- (c) communications and declarations received under Articles 84, 90 and 97;
- (d) declarations received under Article 96, paragraph 3, which shall be communicated by the quickest methods; and
- (e) denunciations under Article 99.

#### Art 101. Registration

1. After its entry into force, this Protocol shall be transmitted by the depositary to the Secretariat of the United Nations for registration and publication, in accordance with Article 102 of the Charter of the United Nations.
2. The depositary shall also inform the Secretariat of the United Nations of all ratifications, accessions and denunciations received by it with respect to this Protocol.

#### Art 102. Authentic texts

The original of this Protocol, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the depositary, which shall transmit certified true copies thereof to all the Parties to the Conventions.