**V**

**PROTOCOL ADDITIONAL**

**TO THE GENEVA CONVENTIONS OF 12 AUGUST 1949,**

**AND RELATING TO THE PROTECTION**

**OF VICTIMS OF INTERNATIONAL ARMED CONFLICTS**

**(PROTOCOL I), OF 8 JUNE 1977**

PART IV

**Civilian population**

SECTION III – *Treatment of persons in the power of a Party to the conflict*

CHAPTER I – FIELD OF APPLICATION AND PROTECTION OF PERSONS AND OBJETS

***Article 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.

***Article 75 — Fundamental guarantees***

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

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 of any act or omission which did not constitute a criminal offence under the national or international law to which he was subject at the time when it was committed; nor shall a heavier penalty be imposed than that which was applicable at the time when the criminal offence was committed; if, after the commission of the offence, provision is made by law for the imposition of a lighter penalty, the offender shall benefit thereby;

*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 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*

*Article 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.

*Article 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.

*Article 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.