

The Legal Position of the Geneva Conventions in Resolving Contemporary International Conflicts

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Article history

Submitted: 2026/06/01; Revised: 2026/07/03; Accepted: 2026/08/23

Abstract

This article examines the legal position of the 1949 Geneva Conventions in resolving contemporary international conflicts. It analyzes the Conventions as the central treaty framework of international humanitarian law and evaluates their continuing relevance in international and non-international armed conflicts, asymmetric warfare, cyber operations, autonomous weapons, occupation, detention, and civilian protection. Using a normative juridical and qualitative literature-based method, the study examines treaty provisions, international legal principles, judicial practice, ICRC materials, and scholarly literature. The analysis shows that the Geneva Conventions remain legally authoritative because their core principles have been reinforced by customary international law, Additional Protocols, international criminal law, and domestic implementation. Their principal weakness is not legal irrelevance, but decentralized enforcement, political selectivity, uncertain classification of conflicts, and technological change. The article argues that the Conventions remain indispensable, but their effectiveness depends on good-faith implementation, Common Article 1 obligations, independent monitoring, national prosecution, international accountability, and contextual interpretation of existing rules.

Keywords

Geneva Conventions; International Humanitarian Law; Armed Conflict; Civilian Protection; Common Article 1; International Criminal Law; Accountability; Cyber Warfare; Autonomous Weapons; Conflict Resolution



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INTRODUCTION

The 1949 Geneva Conventions occupy a central position in the modern law of armed conflict. They establish minimum standards for the treatment of wounded and sick members of armed forces, shipwrecked persons, prisoners of war, and civilians affected by war. Their purpose is not to legalize armed conflict, but to preserve a minimum level of humanity when political and diplomatic mechanisms have failed. Maurer (2019) describes the four Conventions as the central treaties of international

humanitarian law and emphasizes their continuing purpose of preserving common humanity during armed conflict.

The importance of the Geneva Conventions has not diminished in contemporary conflicts. Instead, the nature of conflict has become more complex. International wars increasingly overlap with non-international armed conflicts, proxy operations, occupation, terrorism, cyber operations, information warfare, and the use of autonomous or semi-autonomous weapons. Armed groups may control territory without possessing the legal characteristics of states, while states may conduct military operations through partners, private contractors, or technologically advanced systems. These developments raise questions about the scope, interpretation, and enforcement of the Geneva framework.

The central problem is therefore not whether the Geneva Conventions remain formally valid. Their treaty status, broad acceptance, and relationship with customary international humanitarian law give them continuing legal authority. The more difficult question concerns their practical position in resolving contemporary international conflicts. The Conventions regulate conduct during conflict, but they do not by themselves settle the political causes of war, impose a comprehensive peace process, or guarantee that violators will be punished. Their contribution to conflict resolution is consequently indirect but essential: they limit violence, protect victims, preserve humanitarian access, and create legal standards for accountability.

Forsythe (2019) observes a recurring pattern in discussions of the Geneva Conventions: scholars recognize their major normative development but also emphasize the persistent failure to apply them properly. This tension between normative authority and practical implementation is the foundation of the present study. The Conventions may be legally strong while institutionally weak. Their rules may be clear while enforcement remains decentralized and politically dependent. The legal position of the Conventions is strengthened by several developments. First, many of their basic rules are regarded as customary international law and therefore bind states beyond the strict limits of treaty ratification. Second, the 1977 Additional Protocols have developed and clarified rules on distinction, proportionality, precautions in attack, and the protection of civilians. Third, international criminal law has transformed serious violations into prosecutable international crimes. Fourth, domestic legal systems increasingly incorporate war-crimes provisions and universal-jurisdiction mechanisms. These developments show that the Geneva Conventions function as part of a broader legal system rather than as isolated treaties.

Common Article 1 is especially important. It requires states to respect and ensure respect for the Conventions in all circumstances. Crawford and Pert (2015) explain that this obligation includes not only the duty of a state to comply with humanitarian law, but also the duty to supervise its organs, prepare enforcement mechanisms in peacetime, and take steps to ensure respect by others. Kajander, Kasper, and Tsybulenko (2020) further argue that the obligation may impose positive responsibilities on third states, including responsibilities to prevent and bring violations to an end in situations involving supplied autonomous weapons. Contemporary conflicts also expose limitations in traditional enforcement. Crawford and Pert (2015) emphasize that international humanitarian law lacks a central hierarchical institution comparable to a domestic legal system. Implementation and accountability are therefore distributed among domestic courts, international courts, legislative bodies, diplomatic actors, public scrutiny, and humanitarian organizations.

Giladi and Ratner (2015) show that the International Committee of the Red Cross has assumed a significant role in promoting compliance, even though its confidential and consensual methods may be controversial. This article examines the legal position of the Geneva Conventions in resolving contemporary international conflicts. It addresses four questions: how the Conventions remain legally authoritative; how they regulate modern forms of conflict; why enforcement remains difficult; and what institutional and interpretive strategies may strengthen their effectiveness. The article argues that the Conventions remain indispensable, but their effectiveness depends on implementation beyond treaty text. Legal protection requires domestic incorporation, independent monitoring, international cooperation, criminal accountability, and an interpretation capable of addressing new technologies without weakening the fundamental principles of humanitarian law.

METHODS

This study uses a normative juridical method supported by qualitative legal analysis and structured literature review. The method is appropriate because the research examines the legal status, interpretation, implementation, and enforcement of the Geneva Conventions rather than measuring the frequency of armed conflict or statistically evaluating military outcomes. The main object of analysis is the legal relationship between the 1949 Geneva Conventions and the contemporary mechanisms used to prevent, regulate, and resolve international conflicts.

The primary legal materials consist of the four 1949 Geneva Conventions, the Common Articles, the 1977 Additional Protocols, relevant principles of customary

international humanitarian law, and provisions of international criminal law concerning war crimes and individual responsibility. The research also considers the Rome Statute of the International Criminal Court, jurisprudence from international criminal tribunals, decisions of international courts, and relevant domestic implementation measures. These materials are analyzed to identify the normative content of civilian protection, humane treatment, distinction, proportionality, precaution, detention safeguards, and the obligation to ensure respect for humanitarian law.

The secondary materials consist of scholarly books, peer-reviewed articles, ICRC commentaries, legal policy papers, and research on contemporary armed conflicts. Maurer (2019) is used to examine the historical and continuing significance of the Geneva Conventions. Forsythe (2019) supports the analysis of the gap between normative development and practical application. Crawford and Pert (2015) provide the framework for implementation, enforcement, and accountability, while Giladi and Ratner (2015) support the analysis of the ICRC's role in encouraging compliance. The analysis is conducted in four stages. First, the legal materials are classified according to their functions: protection of persons, regulation of hostilities, treatment of detainees, humanitarian access, state responsibility, and individual criminal responsibility. Second, the study examines the legal position of the Conventions in relation to customary international law, Additional Protocols, international criminal law, and domestic legal systems. This stage is intended to determine whether the Conventions remain legally authoritative even when contemporary conduct is not expressly mentioned in the original treaty text.

Third, the research identifies the principal challenges created by contemporary conflict. These include the distinction between international and non-international armed conflicts, asymmetric warfare, occupation, detention, cyber operations, autonomous weapons, proxy warfare, and the participation of non-state armed groups. Bellinger and Haynes (2011) are used to analyze detention-related challenges, while Žilinskas (2008) and Arachchilage et al. (2016) support the discussion of conflict classification and the changing structure of armed conflict. Fourth, the study synthesizes the sources through a legal-effectiveness framework. Legal effectiveness is assessed through four dimensions: normative authority, implementation capacity, enforcement mechanisms, and practical protection of victims. The framework distinguishes between the existence of a legal rule and the ability of institutions to apply it. It also distinguishes between legal conflict resolution and political conflict resolution. The Geneva Conventions do not independently negotiate peace

agreements, but they contribute to conflict resolution by reducing civilian suffering, creating minimum standards, supporting humanitarian dialogue, and establishing a basis for accountability.

The method uses doctrinal interpretation, contextual analysis, and limited comparative reasoning. Doctrinal interpretation identifies the meaning of treaty obligations. Contextual analysis examines how those obligations apply to contemporary military technologies and conflict structures. Comparative reasoning evaluates the interaction between domestic courts, international tribunals, the ICRC, states, and non-state actors. The conclusion is developed through source comparison and legal synthesis, with attention to both the continuing authority of the Geneva framework and the practical limits of its enforcement.

FINDINGS AND DISCUSSION

The analysis demonstrates that the Geneva Conventions remain the foundational legal framework of international humanitarian law. Their legal position is strengthened by the breadth of their acceptance, the development of customary international law, the Additional Protocols, and the incorporation of serious violations into international criminal law. The Conventions therefore cannot be treated as historical documents whose relevance has ended. Maurer (2019) identifies them as the central treaties of international humanitarian law, while Forsythe (2019) describes them as the cornerstone of the modern law of armed conflict. Their continuing authority is particularly visible in the protection of civilians and other persons who are hors de combat. The Conventions establish the basic legal distinction between persons who may participate directly in hostilities and those who must be protected from attack, abuse, torture, and degrading treatment. This distinction is complemented by rules of proportionality and precaution developed through later treaty practice and customary law. Even when military technology changes, the legal purpose of these rules remains constant: to limit attacks to legitimate military objectives and reduce unnecessary suffering.

The first major finding is that the Geneva Conventions contribute to conflict resolution through humanitarian containment. They do not resolve the political dispute that caused an armed conflict, but they establish minimum standards that can reduce escalation and preserve channels of dialogue. Humanitarian rules create a common legal language between parties that may otherwise recognize no shared political objective. Rules concerning prisoners of war, wounded persons, medical personnel, humanitarian relief, and civilian protection make it possible to negotiate

localized agreements, exchanges, evacuations, access arrangements, and detention visits.

This humanitarian function is important because contemporary conflicts are often prolonged and fragmented. A conflict may involve states, armed groups, foreign supporters, private actors, and local authorities. The legal framework must therefore operate even when the parties do not accept a comprehensive peace settlement. Common Article 3 and related rules applicable to non-international armed conflicts provide minimum protections in situations that do not satisfy the traditional model of war between states. Arachchilage et al. (2016) emphasize the continuing importance of distinguishing international and non-international armed conflicts while recognizing the practical difficulty of applying that dichotomy to modern conflicts.

The second finding is that conflict classification remains a central legal challenge. The legal rights and obligations applicable to a conflict may depend on whether it is classified as international, non-international, occupation, or a transnational operation involving multiple states. Contemporary conflicts may involve foreign intervention, proxy forces, cross-border strikes, territorial control, and armed groups with uncertain relationships to states. If classification is manipulated to avoid stronger legal protections, the result is a protection gap. The law should therefore apply a functional and evidence-based approach that examines the factual structure of hostilities rather than relying only on political labels.

The third finding concerns the protection of civilians under asymmetric warfare. Non-state armed groups may operate from densely populated areas, use civilian objects, conceal weapons, or conduct attacks without visible uniforms. These practices create serious operational difficulties, but they do not eliminate the obligations of state forces. The principle of distinction continues to require identification of military objectives, while proportionality prohibits attacks expected to cause excessive civilian harm in relation to the anticipated military advantage. The presence of unlawful conduct by one party cannot justify unlawful conduct by the other. Schütte (2014) and Williamson (2016) show that civilian protection depends not only on the existence of legal rules but also on implementation, training, operational planning, and institutional oversight. Civilian protection therefore has an anticipatory character. Commanders must assess foreseeable risks, choose means and methods of warfare carefully, and suspend attacks when information indicates that the target is not a lawful military objective.

The fourth finding concerns detention. Contemporary conflicts have produced complex detention practices involving prisoners of war, security detainees, terrorism suspects, individuals held by non-state groups, and persons transferred between states. Bellinger and Haynes (2011) identify several challenges for the Geneva Conventions in detention operations, including classification, status determination, treatment, review, and the relationship between humanitarian law and other legal regimes. These challenges show that detention cannot be placed outside the legal framework merely because a detainee is described as an enemy combatant, terrorist, or unlawful participant.

The Geneva framework requires humane treatment and safeguards against torture, cruel treatment, humiliation, and arbitrary abuse. Its practical effectiveness depends on transparent procedures, access to independent monitoring, records of detention, judicial or administrative review, and accountability for commanders and political authorities. A legal system that prohibits abuse but allows indefinite secrecy or impunity cannot provide meaningful protection. Detention rules therefore connect directly with the broader issue of accountability. The fifth finding is that Common Article 1 provides an important basis for external responsibility. Crawford and Pert (2015) explain that the obligation to respect and ensure respect requires states to supervise their organs, prepare enforcement mechanisms, and take steps to promote compliance. The obligation is significant because contemporary conflicts frequently depend on external support. States may provide weapons, intelligence, training, financing, logistics, or diplomatic protection to parties engaged in armed conflict. A state that is not directly conducting hostilities may still have responsibilities to avoid facilitating serious violations and to use its influence to promote compliance.

Kajander et al. (2020) apply this logic to autonomous weapons systems and argue that supplying states may have positive obligations concerning the design, transfer, monitoring, and use of such systems. This interpretation expands the relevance of Common Article 1 beyond conventional battlefield conduct. It suggests that responsibility may arise at the stage of weapons development and transfer, not only after a weapon causes unlawful harm. The sixth finding concerns cyber operations and autonomous weapons. The Geneva Conventions were drafted before the existence of cyber warfare, algorithmic targeting, machine learning, and autonomous systems. Nevertheless, the absence of express treaty language does not mean that cyber operations or autonomous weapons are legally unregulated. Existing principles of distinction, proportionality, precaution, military necessity, and humanity can apply to new means and methods of warfare. The main challenge is

interpretation and attribution. Cyber operations may damage civilian infrastructure without producing immediate physical destruction. Attacks on hospitals, electricity systems, water facilities, communications networks, or financial infrastructure may generate humanitarian consequences comparable to conventional attacks. The legal analysis must therefore consider the foreseeable effects of an operation rather than its technical form. Steiner (2017) and Ambrose (2025) address the difficulties of applying international humanitarian law to cyber operations and the attribution of responsibility in technologically mediated conflict.

Autonomous weapons create a related accountability problem. If a system selects and attacks targets with limited human intervention, it may become difficult to identify who is responsible for an unlawful result. Possible responsible actors include the commander, programmer, manufacturer, deploying state, supplier, or operator. Margulies (2016) emphasizes the importance of command responsibility for computer-guided lethal force, while Bo et al. (2022) argue for retaining human responsibility in the development and use of autonomous weapons. The Geneva Conventions therefore remain relevant, but their application requires stronger rules on weapons review, human control, testing, traceability, and post-deployment monitoring.

The seventh finding is that the ICRC remains essential but cannot replace state enforcement. Giladi and Ratner (2015) show that the ICRC has developed significant practical responsibilities through direct interaction with parties to conflict, humanitarian visits, legal guidance, and confidential dialogue. Its neutrality, independence, and confidentiality may allow it to operate where public condemnation would close access. However, the ICRC's role also reveals a structural weakness: the parties to the Conventions have not created a fully centralized enforcement mechanism. Humanitarian organizations can document, persuade, advise, and facilitate compliance, but they cannot consistently substitute for national courts, international tribunals, or political institutions.

The eighth finding concerns accountability. Crawford and Pert (2015) emphasize that implementation and enforcement are decentralized and involve domestic courts, international courts, legislative measures, diplomacy, public scrutiny, and education. This decentralization can be a strength because it creates multiple pathways to accountability. It can also be a weakness when states lack political will, courts lack independence, evidence cannot be collected, or powerful actors block investigations.

International criminal law has strengthened the Geneva framework by identifying grave breaches and war crimes as grounds for individual criminal responsibility. However, criminal prosecution remains selective and usually occurs after extensive harm has already been committed. Effective accountability should therefore combine criminal prosecution with preventive monitoring, command supervision, domestic incorporation, sanctions, reparations, and institutional reform. The objective should not be punishment alone, but the creation of systems that reduce the likelihood of repeated violations.

The final synthesis is that the Geneva Conventions remain legally strong but institutionally dependent. Their central principles are sufficiently general to apply to contemporary conflicts, yet their practical effect depends on classification, interpretation, monitoring, evidence, enforcement, and political commitment. The Conventions are not obsolete; they are under-implemented. Their weakness lies less in the absence of rules than in the distance between legal obligation and institutional action. The most effective contemporary approach is therefore neither to replace the Geneva Conventions nor to rely on them without adaptation. It is to reinforce them through customary-law interpretation, Additional Protocols, domestic legislation, international criminal law, Common Article 1 cooperation, ICRC monitoring, transparent weapons review, and stronger accountability for states and non-state actors. This approach preserves the humanitarian core of the existing framework while responding to new technologies and changing conflict structures.

CONCLUSION

The Geneva Conventions remain the central legal foundation of international humanitarian law and continue to possess a decisive position in regulating contemporary armed conflicts. Their authority is reinforced by customary international law, the Additional Protocols, international criminal law, domestic implementation, and the operational work of the ICRC. The Conventions protect civilians, wounded persons, prisoners, detainees, medical personnel, and other persons affected by armed conflict, while establishing minimum standards for the conduct of hostilities. Their contribution to conflict resolution is indirect but essential. They do not eliminate the political causes of war, but they limit violence, facilitate humanitarian dialogue, regulate detention, preserve humanitarian access, and create a basis for accountability. Their principal weakness is not legal obsolescence but decentralized and inconsistent implementation. Conflict classification, political selectivity, weak domestic enforcement, limited access to

evidence, cyber operations, autonomous weapons, and proxy warfare continue to challenge their effectiveness.

The study concludes that the Geneva Conventions should be strengthened through full domestic incorporation, effective Common Article 1 implementation, independent monitoring, national prosecution, international cooperation, and clear accountability for commanders, states, suppliers, and other actors. Existing principles of distinction, proportionality, precaution, humanity, and military necessity should be interpreted functionally so that they apply to new technologies without weakening civilian protection. Autonomous weapons and cyber operations require particular attention to human control, weapons review, traceability, attribution, and prevention. The future of the Geneva framework depends on converting legal commitment into institutional practice. States must supervise their armed forces, regulate arms transfers, support humanitarian organizations, investigate violations, and provide remedies to victims. The Conventions remain indispensable because they provide a common legal language for humanity in war. Their real position in contemporary conflict will ultimately be determined not by the existence of the treaties, but by the willingness of states and other actors to respect, implement, and enforce them.

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