

The Last Question: Do the Distinctive Emblems of the Geneva Conventions 1949, Really Protect? ¹

Abstract

The Article examined the role of the distinctive emblems of the Geneva Conventions in the light of the reality of contemporary armed conflicts. It conceded that the distinctive, no doubt constitute part of the measures put in place by the Geneva Conventions' regime to ensure the protection of both persons and objects in situations of armed conflicts. It however contended that that the protection afforded by the said emblems operates more in principle than in practice as contemporary armed conflicts witness instances of disrespect for the said emblems resulting in direct attacks against both persons and objects wearing or displaying the distinctive emblems thereby undermining protection which constitutes the crust of Humanitarian Law. To address this anomaly, the Article recommended among other things the stipulation of stringent punishment for the violation of the provisions relating to the said emblems; proper identification of protected persons and objects protected by the emblems; and dissemination of the knowledge of the said emblems among armed forces so as to facilitate respect for International Humanitarian Law. The Article is divided into nine parts. The first part is an overview of the subject matter while the second part traces the historical development of the distinctive emblems. Part three examined the regulatory framework on the distinctive emblems while part four discussed the persons and objects protected by the emblems. Part of the Article is the specification on the use of the emblems while part six considered the status of the persons and objects wearing or displaying the distinctive emblems. Part seven analyzed what disrespect for the said emblems entails while part eight examined instances of disrespect for the emblems in contemporary armed conflicts. Part nine and the last of this Article is the concluding remarks.

Keywords: Geneva Conventions, Distinctive Emblems, Armed Conflict, Protection

1. Introduction

Basically, Humanitarian Law protects both persons and objects not being part of an armed conflict;² and the distinctive emblems of the Geneva Conventions otherwise known as the protective emblems represent part of the mechanisms through which this protection is effected.³

The distinctive emblems of the Geneva Conventions are signs and symbols, used to identify and protect certain peaceful activities, persons or locations'.⁴ In other words, they are internationally recognized signs or symbols which point to the fact that the persons wearing

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² N Melzer, *International Humanitarian Law- A Comprehensive Introduction* (International Committee of the Red Cross: Geneva, 2016), 16.

³ Protocol Additional to the Geneva Conventions. 1949 and relating to the Protection of Victims of International Armed Conflict, 1977, (Protocol I) Article 18; Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in the Armed Forces in the Field, 1949, (GC I), Articles 38-44 & 53-54; Geneva Convention for the Amelioration of the Condition of the Wounded, Sick and Shipwrecked in the Armed Forces at Sea, 1949, (GC II), Article 41-45; Geneva Convention on the Protection of Civilian Persons in Times of War, 1949, (GC IV) Article 18; Protocol Additional to the Geneva Conventions. 1949 and relating to the Protection of Non-Victims of International Armed Conflict, 1977, (Protocol II) Article 12.

⁴ Mercedins Sans Frontieres, 'Practical Guide to Humanitarian Law'. <<https://guide-humanitarian-law.org/content/article/3/distinctive-or-protective-emblems-...>> Accessed 3 January 2022; Protocol I, *op cit*, Article 18; GC I, *op cit*, Articles 39 &40; GC II, *op cit*, Article 42 & 43.

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them; and the objects displaying them are entitled to protection in Humanitarian Law.⁵ The emblems referred to are the Red Cross; the Red Crescent; and the Red Crystal (formerly the Red Lion and Sun).⁶

The emblems have both protective and indicative functions.⁷ The protective use is restricted to medical and religious personnel; and to medical units and transports (civilian and military alike).⁸ In their protective use, the said emblems are a symbol of protection for the persons and objects wearing or displaying them.⁹ On the other hand, the indicative use points to the fact that the persons wearing them are linked to National Red Cross and Red Crescent Societies.¹⁰ It is important to note that these emblems do not confer protection in themselves but rather represent the protection afforded persons and objects displaying them.¹¹

It is trite that medical¹² and religious personnel,¹³ medical units¹⁴ and means of transport¹⁵ wearing or displaying the distinctive emblems of the Geneva Conventions in conformity with international law must be respected and protected at all times by not being made objects of attacks.¹⁶ Again, perfidious;¹⁷ and improper use¹⁸ of the distinctive emblems are forbidden. These basic principles of protection apply irrespective of whether the armed conflict is international or non-international in character.¹⁹ In fact, intentionally directing attacks against medical and religious personnel,²⁰ medical units;²¹ and means of transports²² wearing or displaying the distinctive emblem of the Geneva Conventions in conformity with international law, are war crimes. Again, improper use;²³ or even perfidious use of the said emblems in violation of Article 37 of Protocol I constitute grave breach of both the Geneva Conventions and the Protocol I;²⁴ and in fact war crimes. However, this Article is informed by the constant disrespect and misuse of the distinctive emblems in contemporary resulting in direct attacks against both persons and objects protected by these emblems.²⁵ These violations were very obvious in the Syrian and Israel-Palestine conflicts, to mention but a few where both

⁵ GC I, *op cit*, Articles Article 39-44 & 53-54; GC II, *op cit*, Article, Article 41-43; Protocol I, *op cit*, Article 18; Protocol Additional to the Geneva Conventions 1949 and relating to the Adoption of Additional Distinctive Emblem, 2005 (Protocol III).

⁶ GC I, *op cit*, Article 38; GC II, *op cit*, Article 41; Protocol Additional Protocol to the Geneva Conventions, 1949 and relating to the Adoption of an Additional Distinctive Emblem, 2005, (Protocol III) Article 2.

⁷ N Melzer, *op cit*, 152.

⁸ *Ibid*.

⁹ GC I, *op cit*, Articles 24, 26 & 27; GC II, *op cit*, Article 36, 37, 39, 41 & 43; Protocol I, *op cit*, Article 15, 16, 18; Protocol II Article 12; N Melzer, *op cit*, 151.

¹⁰ Protocol III, *op cit*. Article 3.

¹¹ Protocol I, *op cit*, Annex, Article 1(2); Protocol III, *op cit*, Annex, preamble, para 4; N Melzer, *op cit*, 153.

¹² Protocol I, *op cit*, Article 15.

¹³ *Op cit*, Article 8(d).

¹⁴ *Op cit*, Article 8(e).

¹⁵ *Op cit*, Article 8(g).

¹⁶ GC I, *op cit*, Articles 24, 26 & 27; GC II, *op cit*, Article 36, 37, 39, 41 & 43; Protocol I, *op cit*, Article 15, 16, 18; Protocol II, Article 12; N Melzer, *op cit*, 151.

¹⁷ Protocol I, *op cit*, Article 37.

¹⁸ *Op cit*, Article 38; Protocol II, *op cit*.

¹⁹ K Goniewicz, 'Protection of Medical Personnel in Armed Conflicts- Case Study: Afghanistan' (2013) 39 *European Journal of Trauma and Emergency Surgery*, 107-112, DOI 10.1007/s00068-013-025-0. Accessed 11 April 2022.

²⁰ Rome Statute, *op cit*, Article 8(2) (b) (xxiv) & (e) (ii).

²¹ *Op cit*, 8(2)(b)(ix) &(e)(ii)

²² *Op cit*, 8(2) (b) (xxiv).

²³ Protocol I, *op cit*, Article 38.

²⁴ *Op cit*, Article 85(3) (f).

²⁵ K Goniewicz, *op cit*, 108.

government and opposition forces deliberately targeted medical personnel and units as a war strategy.²⁶ The Article observes that respect for the distinctive emblems is more observed in principle than in practice and therefore calls for more proactive measures to facilitate respect for the distinctive emblems in contemporary armed conflicts.

2. Brief History of the Distinctive Emblems of the Geneva Conventions

Following the decision of the Diplomatic Assembly to provide for a clear neutral sign to protect medical staff and facilities on the battlefield, the First Geneva Convention was adopted in 1864.²⁷ The said Convention recognized the Red Cross on a white background, the exact reverse of the flag of neutral Switzerland²⁸ thereby making the Red Cross the first emblem to be used.²⁹ The contrasting colours of this symbol make for easy identification or recognition from a distance.³⁰

The initial intention of the 1864 Diplomatic conference was to establish a universal, neutral and distinctive sign that could be used and recognized internationally for the protection of medical staff and facilities on the battlefield.³¹ However, while this plan was still in place, the Ottoman Empire adopted the Red Crescent as its protective sign during the Russo-Turkish war, while at the same time recognizing and respecting the Red Cross.³² Again, Persia adopted the Red Lion and Sun as its own emblem. This brought the number of emblems in use to three (the Red Cross; Red Crescent; and Red Lion and Sun). These 3 were formally adopted in 1929.³³ Nonetheless, in 1980, Iran dropped the Old Persian sign- the Red Lion and adopted the Red Crescent instead.³⁴ In 1992 however, the then president of the International Committee of the Red Cross called for the recognition of an additional emblem devoid of any national, political or religious connotation as a result of the growing concern about the respect of the neutrality of the Red Cross or Red Crescent in the 1990s.³⁵ This gave rise to the adoption of the Protocol Additional to the Geneva Convention, 1949 and relating to the Adoption of an Additional Distinctive Emblem, 2005 (Protocol III). The emblem became known as the ‘third Protocol Emblem’³⁶ or the Red Crystal. This brought the total number of the distinctive emblems now in use to three (the Red Cross; the Red Crescent; and the Red Crystal).³⁷ These, together constitute what is known as the distinctive emblems of the Geneva Conventions.

3. Legal Framework for the Regulation of the Distinctive Emblems

The use of the distinctive emblems is specifically regulated by the Geneva Conventions, 1949; their Additional Protocols;³⁸ and the Rome Statute of the International Criminal Court.³⁹ These treaties and Conventions, among other things, established and recognized the distinctive

²⁶ A Omar, ‘Understanding and Preventing Attacks on Health Facilities during Armed Conflict in Syria’ (2020) *Dove Press Journal: Risk Management and Healthcare Policy*, 191.

²⁷ < <https://www.icrc.org/en/doc/war-and-law> > Accessed 13 April 2022.

²⁸ GC I, *op cit*, Article 38.

²⁹ < <https://www.icrc.org/en/doc/war-and-law> > Accessed 13 April 2022.

³⁰ *Ibid.*

³¹ N Melzer, *op cit*, 152.

³² *Ibid.*

³³ *Ibid.*

³⁴ *Ibid.*

³⁵ *Ibid.*

³⁶ Protocol II, *op cit*, Article 2(4).

³⁷ GC I, *op cit*, Article 38; GC II, *op cit*, Article 41; Protocol III, *op cit*, Article 2(4).

³⁸ 1977 & 2005.

³⁹ 1998.

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emblems; specify their use; size; purpose and placement; the persons and objects they protect; when they can be used; and what constitute respect and violation of the said emblems.⁴⁰

3.1. Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in the Armed Forces in the Field, 1949, (GC I); Geneva Convention for the Amelioration of the Condition of the Wounded, Sick and Shipwrecked in the Armed Forces at Sea, 1949, (GC II); and Geneva Convention Relating to the Protection of Civilian Persons in Times of War, 1949, (GC IV)

The GCs I;⁴¹ II;⁴² and IV⁴³ established and recognized the emblem of the Red Cross on a white background which shall be displayed on flags, armbands and on all equipment used in medical service. In the same manner, the Conventions⁴⁴ also recognized the emblem of the Red Crescent and Red Lion and the Sun, for those countries that are already using them in place of the Red Cross. The said Conventions⁴⁵ further stipulate that the emblems shall be displayed on the flags, armbands and on all equipment of medical services under the direction of a competent authority.

On the other hand, Articles 40⁴⁶ and 42⁴⁷ recognized the use of water-resistant armband and identity card bearing the distinctive emblem which shall be issued and stamped by the relevant military authority.⁴⁸ These shall contain such relevant information as the names, date of birth, rank and service number of the bearer; and in what capacity they are entitled to protection under the Convention.⁴⁹ The Conventions⁵⁰ further provide that the said armband and identity card shall contain the photograph of the bearer and stamped by the relevant authority and on no account shall any person be deprived of the insignia or card or of the right to wear the armband. In the case of loss, the Conventions⁵¹ provide that the said persons shall be entitled to receive duplicate of the card and the replacement of the insignia.

Again, the GC II⁵² and GC IV⁵³ require the marking of civilian hospitals; hospital ships; and small crafts designated under Articles 22, 24, 25 and 27 with the distinctive emblems; and further provides that the said marking can only be used in peacetime or war time for indicating or protecting the said ships, except otherwise provided in any other international Convention or by agreement between all the Parties to the conflict.⁵⁴

⁴⁰ < <https://www.icrc.org/en/doc/war-and-law> > Accessed 13 April 2022.

⁴¹ Article 38.

⁴² Article 41.

⁴³ Article 18.

⁴⁴ Ibid.

⁴⁵ GC I, *op cit*, Articles 38; 41 & GC IV, *op cit*, Article 18.

⁴⁶ GC I, *ibid*.

⁴⁷ GC II, *ibid*.

⁴⁸ GC I, *op cit*, Article 39; GC II, *op cit*, Article 42.

⁴⁹ Ibid.

⁵⁰ Ibid.

⁵¹ GC I, *op cit*, Article 39; GC II, *op cit*, Article 42.

⁵² Article 43.

⁵³ Article 18.

⁵⁴ GC II, *op cit*, Article 44.

The Conventions⁵⁵ specify the persons and objects that may wear and display the distinctive emblems such as medical and religious personnel; medical units and transports; and that such persons and objects shall be respected and protected against attack at all times.⁵⁶

The High Contracting Parties are also required to put all necessary measures in place (including through adequate domestic legislations), to prevent and repress, at all times any abuse of the distinctive signs provided for under Article 43.⁵⁷

3.2. Protocol Additional to the Geneva Conventions and relating to the Protection of Victims of International Armed Conflicts, 1977

Protocol⁵⁸ stipulates the persons and objects that may wear or display the protective emblems. It further defines what constitute medical and religious personnel; medical units and transports, for the purposes of the protection accorded by the distinctive emblems.⁵⁹

Article 18(1) enjoins States to endeavour to ensure that medical and religious personnel; medical units; and transports are properly and adequately identified. Again, it enjoins States to endeavour to adopt and implement methods and procedures necessary to make it possible to recognize medical units and transport which use the protective emblems and distinctive signals, in including where fighting is taking place in occupied territories.⁶⁰

Article 18(4) provides for the marking of medical units and transport; ships and crafts with the distinctive emblems by the relevant authority as specified under Articles 22, 24 25 and 27 of the Convention II.

Most importantly, Protocol I prohibits perfidious use⁶¹ and misuse⁶² of the distinctive emblems of the Red Cross; Red Crescent; and the Red Lion and Sun or other protective signs recognized by the Conventions in violation of Article 37 of Protocol I. Such violations are regarded as grave breach of both the Geneva Conventions and Protocol I.⁶³

3.3. Protocol Additional to the Geneva Conventions, 1949 and Relating to the Protection of Victims of Non-international Armed Conflict, 1977 (Protocol II)

The Protocol II which complements the common Article 3 in the regulation of non-international armed conflicts also regulates the use of the distinctive emblems. Article 12 specifically provides for the display of the distinctive emblems of the Red Cross; the Red Crescent; and the Red Lion and Sun on a white background by medical and religious personnel; and on medical units and transports, under the direction of the relevant authority. It further requires respect for and proper use of the said emblems in all circumstances.⁶⁴

3.4. Protocol Additional to the Geneva Conventions, 1949 and Relating to the Adoption of an Additional Distinctive Emblem, 2005 (Protocol III)

Article 2 of the Protocol III recognizes the Red Crystal emblem (otherwise known as the ‘third Protocol emblem’), in addition to the already existing emblems of the Red Cross and Red

⁵⁵ GC I, *op cit*, Articles 36, 37, 39 & 43; GC IV, *op cit*, 18, 20, 21-23.

⁵⁶ *Ibid*.

⁵⁷ GC II, *op cit*, Article 45.

⁵⁸ Article 12 & 15.

⁵⁹ Protocol I, *op cit*, Article 8.

⁶⁰ *Op cit*, Article 18(2) & (3).

⁶¹ Protocol I, *op cit*, Article 37.

⁶² *Op cit*, Article 38

⁶³ *Ibid*, Article 85(3) (d).

⁶⁴ Protocol II, *op cit*, Article 12.

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Crescent provided for under the Geneva Conventions I,⁶⁵ II,⁶⁶ IV.⁶⁷ The ‘third Protocol emblem enjoys equal status with the already existing emblems.⁶⁸ The Red Crystal (‘third Protocol emblem’) is composed of a red frame in the form of a square put on edge on a white background.⁶⁹

The Protocol⁷⁰ further stipulates that the medical services and religious personnel of armed forces of High Contracting Parties may without prejudice to their current emblems make temporary use of any distinctive emblem referred to in paragraph 1 of Article 2. Again, medical services and religious personnel participating in operation under the auspices of the United Nations may use the said emblem with the agreement of the participating States.⁷¹

Article 3⁷² provides for the indicative use of the ‘third Protocol emblem’ by National Societies of the High Contracting Parties. More so, it stipulates that the International Committee of the Red Cross and International Federation of the Red Cross and Red Crescent Societies may use the Red Crystal emblem in exceptional circumstances in order to facilitate their work.⁷³

Besides, the provisions of the Geneva Convention regarding the prevention and repression of the misuse of the distinctive emblems also apply to the ‘third Protocol emblem’.⁷⁴

Over and above all, the Protocol III⁷⁵ requires Parties to take measures necessary for the prevention and repression, at all times, of any misuse of the distinctive emblems mentioned under Articles 1 and 2, including perfidious use of the said emblems.

3.5. Rome Statute of the International Criminal Court, 1998

The Rome Statute of the International Criminal Court⁷⁶ forbids improper use of the distinctive emblems of the Geneva Conventions and considers any death or serious personal injury resulting from the misuse of the said emblems as a war crime.⁷⁷ Additionally, deliberate attack on medical and religious personnel; medical units; and transports wearing or displaying the distinctive emblems of the Geneva Conventions is a war crime.⁷⁸

⁶⁵ Article 38.

⁶⁶ Article 41.

⁶⁷ Article 18.

⁶⁸ Protocol III, *op cit*, Article 2(1).

⁶⁹ *Op cit*, Article 2(2).

⁷⁰ Protocol III, *op cit*, Article 2(4).

⁷¹ *Op cit*, Article 5.

⁷² Protocol III, *op cit*.

⁷³ Article 4.

⁷⁴ Protocol III, *op cit*, Article 6(1).

⁷⁵ *Ibid*.

⁷⁶ 1998.

⁷⁷ Article 8(2) (b) (vii).

⁷⁸ Article 8(2) (b) (ix) & (xxiv).

4. Persons and Objects Protected by the Distinctive Emblem

The emblems of the Geneva Conventions protect persons;⁷⁹ objects;⁸⁰ and locations.⁸¹ The persons protected by the said emblems are medical personnel;⁸² religious personnel;⁸³ and relief workers.⁸⁴ Apart from persons, the distinctive emblems protect medical units/⁸⁵ services;⁸⁶ and means of transports⁸⁷ such as hospital buildings,⁸⁸ vehicles, ships and aircraft and so on.⁸⁹

4.1. Medical Personnel

The term ‘medical personnel’ include both civilian and military medical personnel⁹⁰ and is used to refer to those persons exclusively assigned by a Party to the conflict the task of medical purposes such as searching for, collection, transportation, diagnosis or treatment including first aid treatment of the wounded, sick and shipwrecked and the prevention of disease or to the administration of medical units or the administration and operation of medical transports.⁹¹ The said assignment may be of a permanent or temporary nature.⁹²

4.2. Religious Personnel

This refers to military or civilian persons,⁹³ such as chaplains, who are exclusively engaged in the work of their ministry and attached to a Party to the conflict, to its medical units or transport or to Civil Defence Organization.⁹⁴ It is immaterial whether such assignment is of a permanent or temporary nature.⁹⁵

4.3. Medical Units

Medical units means establishment and other units (military or civilian) organized for medical purposes such as search for, collection, transportation, diagnosis or treatment including first aid treatment of the wounded, sick and shipwrecked and the prevention of disease; hospitals and other similar units, blood transfusion centers, preventive medicine centers and institutes, medical depots and the medical and pharmaceutical stores of such units; whether such units are fixed or mobile; permanent or temporary in nature.⁹⁶

⁷⁹ GC I, *op cit*, Articles 24, 26, & 27 & 40; GC II, *op cit*, Articles 36, & 37; GC IV, *op cit*, Articles 18, 20, 21-23; Protocol I, *op cit*, Article 12 & 18; Protocol II, *op cit*, Article 12.

⁸⁰ GC I, *op cit*, 35, 36, & 37; GC II, *op cit*, Article 38, 39, 40, 41 & 43; GC IV, *op cit*, Articles 21-23; Protocol II, *op cit*, Article 12; Protocol I, *op cit*, Article 15.

⁸¹ Ibid; Medecins Sans Frontieres, ‘Practical Guide to Humanitarian Law’ <<https://guide-humanitarian-law.org/content/article/3/distinctive-or-protective-emblems-...>> accessed 18 April, 2022.

⁸² Protocol I, *op cit*, Articles 8(c) & 18(1); GC II, *op cit*, Articles 36 & 37; GC IV, *op cit*, 20; Protocol II, *op cit*, Article 12; Protocol III, *op cit*, Articles 2(4) & 5.

⁸³ Protocol I, *ibid*, Articles Article 8 (d) & 18(1); GC II, *op cit*, Articles 36 & 37; GC IV, *op cit*, 20; Protocol II, *op cit*, Article 12; Protocol III, *op cit*, Articles 2(4) & 5.

⁸⁴ GC I, *op cit*, Article 26; Protocol III, *op cit*, Article 4.

⁸⁵ Protocol I, *op cit*, Article 15.

⁸⁶ Ibid, Article 16.

⁸⁷ Hague Regulations, 1899 & 1907, Article 27; GC I, *op cit*, Article 19; GC II *op cit*, Articles 41, 43; GC IV, *op cit*, Article 18, 21-23; Protocol II, *op cit*, Article 12.

⁸⁸ GC IV, *op cit*, Article 18.

⁸⁹ Protocol I, *op cit*, Article 18(4); GC II, *op cit*, Article 39 & 41.

⁹⁰ Protocol I, *ibid*, Article 15.

⁹¹ *Op cit*, Article 8(c).

⁹² Ibid.

⁹³ Article 15.

⁹⁴ Article 8 (d).

⁹⁵ Ibid.

⁹⁶ Protocol I, *op cit*, Article 8(e).

4.4. Medical Transports

This refers to ‘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’.⁹⁷

5. Specification on the Use of the Distinctive Emblems

The distinctive emblems of the Geneva Conventions have both protective and indicative usages.⁹⁸ The protective use of the said emblems is a war time affair. In such usage, the emblem serves as a visible sign that the persons and objects wearing or displaying them are entitled to protection.⁹⁹ The said emblems must be in red on a white background with no additions, in their protective use.¹⁰⁰ They must also be clearly displayed in a large format on protected buildings, such as hospitals, and vehicles under the direction of the relevant authority.¹⁰¹ Additionally, emblems on armbands and vests for protected personnel must also be clear and stand alone.¹⁰²

However, in their indicative usage, the distinctive emblems point to the fact that the persons wearing them are linked to National Red Cross and Red Crescent Societies.¹⁰³ The indicative use of the distinctive emblems is a peacetime affair. Nonetheless, National Societies may continue to use the indicative emblem, but only under the condition that it cannot be considered as implying the protection of the Geneva Conventions.¹⁰⁴ In their indicative use, the said emblems are required to be small in size and may not be placed on armbands or on the roofs of buildings.¹⁰⁵

The distinctive emblems shall be used under the direction of a competent military authority¹⁰⁶ and shall be displayed on the flags, armbands and on all equipment employed in the medical service.¹⁰⁷

Medical and religious personnel shall wear affixed to the left arm, water-resistant armband bearing the distinctive emblem issued and stamped by a competent military authority.¹⁰⁸ The said emblems must be clear and stand alone.¹⁰⁹

In addition to wearing the identity disc mentioned in Article 16 of GC I, such personnel shall also carry a special card bearing the distinctive emblem.¹¹⁰ The identity card shall be water-resistant and handy with the photograph of the bearer and shall contain such relevant information as the names, date of birth, rank and service number of the bearer and in what capacity the bearer is entitled to protection under the Convention.¹¹¹

⁹⁷ *Op cit.*, Article 8(g).

⁹⁸ Protocol III, *op cit.*, Article 3. < <https://www.icrc.org/en/doc/war-and-law> > Accessed 18 April, 2022.

⁹⁹ GC I, *op cit.*, Articles 38-44 and 53-54; GC II, *op cit.*, 41-44; Protocol I, *op cit.*, Article 18.

¹⁰⁰ GC I, *ibid.*, Article 38.

¹⁰¹ *Op cit.*, Article 39.

¹⁰² < <https://www.icrc.org/en/doc/war-and-law> > Accessed 18 April, 2022.

¹⁰³ Protocol III, *op cit.*, Article 3; < <https://www.icrc.org/en/doc/war-and-law> > Accessed 18 April 2022.

¹⁰⁴ Protocol III, *op cit.*, Article 3; < <https://www.icrc.org/en/doc/war-and-law> > Accessed 18 April 2022.

¹⁰⁵ < <https://guide-humanitarian-law.org/contents/article/3/distinctive-emblems-signs-and-signals> > Accessed 18 April, 2022.

¹⁰⁶ GC I, *op cit.*, Article 39; GC II, *op cit.*, Article 41.

¹⁰⁷ *Ibid.*

¹⁰⁸ GC I, *op cit.*, Article 40 & 41; GC II, *op cit.*, Article 42.

¹⁰⁹ *Ibid.*

¹¹⁰ GC I, *op cit.*, Article 40.

¹¹¹ *Op cit.*, Article s 40 & 42.

As for the use of the said emblems on objects/medical facilities and means of transport, the distinctive emblems shall, with the consent of competent military authorities be hoisted over such medical units and establishments entitled to respect and protection under the Conventions.¹¹² Besides, Parties to the armed conflict must take all necessary steps to ensure that the distinctive emblems are clearly displayed in a large format on such medical units and are visible to the enemy on land, air, or naval forces in order to avoid possible attack against such medical facilities.¹¹³

Medical aircraft shall also bear clearly marked, the distinctive emblem of the Red Cross, Red Crescent or Red Crystal together with their national colours, on their lower, upper and lateral surfaces.¹¹⁴ They may further be provided with any other means of identification as agreed by the Parties.¹¹⁵

6. Status of Persons and Object wearing or Displaying the Distinctive Emblems

The distinctive emblems represent protection for both persons and objects wearing or displaying them.¹¹⁶ Thus, persons wearing or displaying the distinctive emblems such as medical personnel;¹¹⁷ and religious personnel are entitled to respect and protection against direct attacks¹¹⁸ unless they commit outside their humanitarian functions, acts harmful to the enemy.¹¹⁹

Medical units¹²⁰ and means of transports¹²¹ displaying the distinctive emblems shall also be respected and protected against attack unless they are used to commit, outside their humanitarian functions, acts harmful to the adverse party.¹²² In addition, they may not be captured during the time they are in the service of the hospital ship, whether or not there are wounded and sick on board.¹²³ Medical aircraft may not be the object of attack but shall be respected by the Parties to the conflict.¹²⁴

Therefore, acts such as feigning¹²⁵ of protected status by the use of the distinctive emblems of the Geneva Conventions¹²⁶ and the misuse of same¹²⁷ constitute disrespect for the said emblems.

Again, directing attacks against persons or objects wearing or displaying the distinctive emblems of the Geneva Conventions in conformity with international law further constitutes disrespect for the said emblems.¹²⁸

¹¹² GC I, *op cit*, Article 39; GC II, *op cit*, Article 41.

¹¹³ GC IV, *op cit*, Article 18; Protocol I, *op cit*, Article 18.

¹¹⁴ GC I, *op cit*, Article 36.

¹¹⁵ *Ibid*.

¹¹⁶ *Ibid*; GC II, *op cit*, 39; Protocol I, *op cit*, Articles 8(c) & 15.

¹¹⁷ *Ibid*.

¹¹⁸ Protocol I, *op cit*, Article 15.

¹¹⁹ *Op cit*, Article 13.

¹²⁰ *Ibid*, Articles 8(e) & 12; Hague Regulations, *op cit*, Article 27; GCI, *op cit*, Article 19; GC IV, *op cit*, Article 18, 21-23; Protocol II, *op cit*, Article 12.

¹²¹ Protocol I, *op cit*, Articles 8(g) & 21-24.

¹²² *Op cit*, Article 13.

¹²³ GC II, *op cit*, Article 36.

¹²⁴ GC I, *op cit*, Article 36; GC II, *op cit*, Article 39.

¹²⁵ *Op cit*, Article 37.

¹²⁶ Protocol I, *op cit*, Articles 38 & 85; GC I, *op cit*, Article 36 & 37.

¹²⁷ *Op cit*, Article 38.

¹²⁸ *Op cit*, Articles 12 & 85.

More so, directing attacks against religious personnel using the distinctive emblems of the Geneva Conventions in conformity with international law is disrespect of said emblems and in fact constitutes a war crime.¹²⁹ Furthermore, directing attacks against medical transports displaying the distinctive emblems is disrespectful of the said emblems.¹³⁰

7. Contemporary Armed Conflicts and the Distinctive Emblems

Despite the lofty provisions stipulating respect for the emblems of the Geneva Conventions, contemporary armed conflicts witness instances of disrespect through direct attacks on persons and objects protected by the said emblems. This is particularly evident in such armed conflicts in Syria;¹³¹ South Sudan; Afghanistan;¹³² and Israel-Palestine, to mention but a few. These conflicts are characterized by incidences of direct attacks against medical personnel and facilities; relief workers;¹³³ and even looting of relief supplies¹³⁴ in clear violation of the provisions of Humanitarian Law.¹³⁵

The Syrian Civil War, for instance, witnessed repeated targeting of healthcare workers and facilities as a war strategy.¹³⁶ Health facilities were targeted by bombings and other means of violence for years. Medical facilities like the *Aleppo's Dar al Shifa* in the Northern Hama were also targeted multiple times on 79 separate occasions¹³⁷ in clear violation of Humanitarian Law. To that effect, Omar¹³⁸ observes that

Since 2011, the Syrian government has been solely responsible for 312 attacks on healthcare facilities with the majority of the attacks being chosen and targeted specifically - a direct violation of International Humanitarian Law.

Again, the offensive launched by the Syrian-Russian Alliance in February 2018 in an attempt to reclaim Eastern *Ghouta* left many medical facilities destroyed among other things,¹³⁹ as the attack was indiscriminate.

On the other hand, *Medecins Sans Frontieres* (Doctors without Borders) - a humanitarian relief agency, had decried the increased incidences of attacks on healthcare facilities as they are 'continually dragged onto the battlefield, and patients and their doctors sacrificed in the process'.¹⁴⁰ In 2015 alone, the humanitarian relief agency recorded the loss of 23 of its staff in nine separate events cutting across Afghanistan, South Sudan, Syria, Yemen, and Central African Republic.¹⁴¹ Hospitals, clinics and ambulances came under attack in Syria while its

¹²⁹ Protocol I, *op cit*, Article 15 & 16; Rome Statute, *op cit*, Article 8(2)(b)(xxiv) & (e)(ii).

¹³⁰ Protocol I, *op cit*, Articles 21-24.

¹³¹ A Omar, *op cit*, 191.

¹³² K Goniewicz, *op cit*, 108.

¹³³ A Omar, *op cit*, 191; K Goniewicz, *op cit*, 108; M Usmani, 'Restriction on Humanitarian Aid in Darfur: The Role of the International Criminal Court', (2007) vol. 36 *GA. J. INT'L & COMP. L.*, 265.

¹³⁴ M Usmani, *op cit*, 266.

¹³⁵ Protocol I, *op cit*, Articles 12, 15 & 16.

¹³⁶ A Omar, *op cit*, 193 & 195.

¹³⁷ *Op cit*, 195.

¹³⁸ *Op cit*, 194.

¹³⁹ A Nwotite, 'An Assessment of the Law of Armed Conflict and Internally Displaced Persons in Syrian Civil War: The Need to Strengthen Protection' (2020) 10 *Journal of Public and Private Law, UNIZIK*, 43, 54.

Available at <https://ezenwaohaetoor.org/journals/index.php/UNIZIKJPPL/article/download/1056/1058>

¹⁴⁰ < <https://www.msf.org/attacks-medical-care-depth> > Accessed 11 April 2022.

¹⁴¹ *Ibid*.

health facilities were invaded in Sudan.¹⁴² In 2021, a clearly marked MSF ambulance transferring patients between *Douentza* and *Sevare*, in central Mali was violently attacked and the occupants detained wherein one of the patients died in the process.¹⁴³

These incessant attacks, particularly the destruction of the *Kunduz* Trauma Centre and the devastating assault on health facilities in Syria and Yemen necessitated the adoption of the UN Security Council Resolution 2286 in May 2016, although nothing has changed as hospitals and medical and humanitarian workers continue to be threatened and targeted.¹⁴⁴

The South Sudanese conflict is by no means different as ‘everyone and everything is a target’.¹⁴⁵ The said civil war was characterized by increase incidences of attacks against health facilities and aid workers, all as a war strategy.¹⁴⁶ In 2016 and 2017 alone, at least 50 medical institutions were attacked.¹⁴⁷ In the same vein, medical personnel and aid workers were also abducted and killed; and humanitarian workers denied access to war torn zones.¹⁴⁸ A senior researcher for Human Rights Watch confirms this thus: ‘since this war started, we have seen both sides attack health workers, clinics and hospitals in total disregard of the protections accorded to them under international humanitarian law’.¹⁴⁹

Worse still, Israel-Palestine conflict further witnessed direct attacks on both medical workers and health facilities.¹⁵⁰ In particular, the 11 days Gaza airstrikes witnessed the destruction of at least 9 hospitals; 19 clinics and the killing of medical personnel,¹⁵¹ all in clear violation of Humanitarian Law prohibiting attacks on medical personnel and facilities.¹⁵²

8. Conclusion and Recommendations

Respect for the distinctive emblems of the Geneva Conventions is very necessary if protection which is the core of Humanitarian Law is to be achieved. Thus, Melzer¹⁵³ observed that ‘the wounded, sick and shipwrecked cannot be protected unless the medical... personnel coming to their aid also benefit from protection... the later must be protected against all acts of hostility...’ However, respect will not be guaranteed unless all hands are on deck. To that effect, this Article recommends certain proactive measures to facilitate respect for the distinctive emblems. These will include:

1. Aggressive campaign on the knowledge and respect for the Distinctive Emblems

State Parties must mount an aggressive campaign regarding the knowledge and respect for the distinctive emblems in order to guarantee respect for the said emblems. This will come by way of dissemination of the rules of Humanitarian Law at all levels and at all times among the armed forces of the parties to the conflict.

¹⁴² Ibid.

¹⁴³ Ibid.

¹⁴⁴ Ibid.

¹⁴⁵ < <https://apnews.com/article/15e99ec32ce84a4ebb2db23d8acc82cf> > Accessed 11 April 2022.

¹⁴⁶ Ibid.

¹⁴⁷ Ibid.

¹⁴⁸ Ibid.

¹⁴⁹ < <https://apnews.com/article/15e99ec32ce84a4ebb2db23d8acc82cf> > Accessed 11 April 2022.

¹⁵⁰ < <https://theintercept.com/2021/05/21/gaza-bombing-hospital-israel> > Accessed 12 April 2022.

¹⁵¹ < www.bbc.com/news/world-middle-east-57492745 > Accessed 12 April 2022,

< <https://www.washingtonpost.com/world/2021/06/15/israel-gaza-airstrikes--hamas> > Accessed 12 April 2022.

¹⁵² Protocol I, *op cit*, Articles 12, 15 & 16.

¹⁵³ N Melzer, *op cit*, 137.

2. Proper Identification of persons and objects protected by the Distinctive Emblems

The persons and objects protected by the emblems of the Geneva Conventions must be clearly marked with the emblems so that they could be identified even from a distance. This will prevent or minimize incidences of direct attacks on protected persons and objects thereby enhancing respect for the said emblems.

3. Stipulation of Effective Sanctions Punishing Disrespect for the Emblems

The stipulation of effective sanctions punishing disrespect or misuse of the emblems is very vital so as to deter future violators. Such stipulation should be provided for in the States' domestic laws in accordance with the provisions of Article 45¹⁵⁴ and 6.¹⁵⁵

4. Political will to implement the necessary laws

It is one thing to enact laws and quite a different ball game implementing them. If Humanitarian Law must succeed in its mission of protection particularly through the means of the distinctive emblems, parties to the armed conflict must over and above all, renew and strengthen their commitment to respecting and ensuring respect for the distinctive emblems of the Geneva Conventions. This commitment will include putting in place the required measures such as the enactment of the necessary domestic laws repressing and punishing disrespect for the distinction emblems and ensuring that violators individually held liable for any violation.

¹⁵⁴ GC II, *ibid.*

¹⁵⁵ Protocol III, *op cit.*