

- Geneva convention along with the Hague convention on the international humanitarian laws (IHL) - it comes into practice during the armed conflict
- IHL aims to bring limits at war - regulates the conduct of belligerent
- The Geneva Conventions & their additional Protocols are international treaties that contain the most important rules limiting the barbarity of war
- They protect the people, who do not take part in the war – civilians, medics, aid workers & those who can no longer fight – wounded, sick & shipwrecked troops, prisoners of war
- Convention & Protocols calls for the measures to be taken to prevent or put an end to all breaches – contains stringent rules to deal with such 'grave breaches'.
- 1949 Geneva Convention – represents 4th updated version of Geneva Convention on the wounded & sick following those adopted in 1864, 1906 & 1929
- G.C. 1949 – Provides protection for wounded, sick as well as for medical, religious personnel, medical units, medical transport
- Second G.C. 1906 – Replaced Hague Convention of 1907 for adoption to Maritime Warfare of the principles of G.C. – 63 art. Applicable specifically to war at sea – it protects hospital ships – has one annex containing a model identity card for medical & religious personnel
- Third G.C. 1929 – replaced the Prisoners of War Convention of 1929 – contains 143 art while 1929 Convention had only 97 – conditions & places for captivity were more precisely defined, particularly with regard to labour of prisoners of war, their financial resources, relief they receive, judicial proceedings instituted against them.
- Third G.C. – Establishes the principle that prisoners of war shall be released & repatriated without delay after cessation of active hostilities
- Fourth G.C. – G.C.s before 1949 were concerned with combatants only & not with civilians – Convention of 1949 takes account of the experience of WWII.
- To addressing the conduct of hostilities was added later in 1977 Additional Protocol
- Fourth G.C. 1949 – the status & treatment of the protected persons, distinguishing between the situation of foreigners on the territory of one of the parties to the conflict & that of civilians in the occupied territory – spells out obligation of the occupying power, the civilian population & contains detailed provisions on humanitarian relief for populations in occupied territory
- Art 3 is common in all 4 G.C.s – marked a breakthrough as it covered for the first time, situations of non-international armed conflicts – includes traditional civil wars, internal armed conflicts that spill over into other state or multinational force intervenes alongside the govt
- Art 3 establishes fundamental rules from which no derogation is permitted – is like mini-convention within conventions, as it contains essential rules of the G.C. in a condensed format & makes them applicable to conflicts not of an international character
- Art 3 prohibits murder, mutilation, torture, cruel, humiliating & degrading treatment, the taking of hostages & unfair trial
- G.C. calls on the parties to the conflict to bring all or parts of G.C. into force through so called special agreements
- Convention recognises that the application of these rules does not affect the legal status of the parties to the conflict.
- Most of the armed conflicts today are non-international
- Two Protocols were adopted in 1977 – strengthen the protection of victims of international (Protocol-I) & Non – international (Protocol II) armed conflicts & place limits on the way wars are fought
- Protocol II was the first ever international treaty devoted exclusively to situations of non-international armed conflicts
- In 2005, a third additional Protocol was adopted creating an additional emblem, the Red Crystal, which has the same international status as the Red Cross & Red Crescent emblems.
- The rules protecting the prisoners of war (POWs) are specific – the status of POW applies only in international armed conflict – POWs cannot be prosecuted for taking part in hostilities but only aims to prevent further participation in the conflict
- The G.C. strictly bar airing pictures of captured prisoner on the television
- Art 13 of the G.C. :- POWs must at all times be protected, particularly against acts of violence or intimidation & against insults & public curiosity
- The use of human shield is forbidden under the G.C. 1949
- International Committee of the Red Cross (ICRC) describes POWs usually members of armed forces of one of the parties to conflict who fall into the hands of the adverse party
- Henry Dunant – Swiss businessman visited battle of Solferino in 1859 – wrote a book 'A Memory of Solferino' – proposed (1) A permanent relief agency for humanitarian aid in times of war & (2) A govt

treaty recognizing the neutrality of agencies & allowing it to provide aid in war zone

- The proposals of Henry Dunant led to the establishment of the 'Red Cross' as well as for the first Geneva Convention of 1864 .
- G.C. provides for universal jurisdiction as opposed to a more traditional 'territorial jurisdiction'
- The doctrine of 'Universal Jurisdiction' – genocide , crimes against humanity, torture , war crimes are so exceptionally grave that they affect the fundamental interests of the international community as a whole
- Universal Jurisdiction – every state bound by treaties is under legal obligation to search & prosecute those in its territory suspected of committing such crimes
- Where there is no domestic law to allow such 'Universal Jurisdiction' , the state must introduce necessary domestic legislative provision in that direction
- G.C. 1949 – Accountability of warring states confirmed
- POWs – Religion , Caste ,Birth Place cannot be inquired – Rank wise Protocols are followed
- Countries across the world ratified for Geneva convention Still its implementation is voluntary
- Use of chemical weapons and indiscriminate use of weapons are continued throughout the world .

#### ON EASY TERMS

- The First Geneva Convention protects wounded and sick soldiers on land during war. This convention extends to medical and religious personnel, medical units, and medical transport. While recognising distinctive emblems of these organisations, the convention has two annexes containing a draft agreement relating to hospital zones and a model identity card for medical and religious personnel.
- The Second Geneva Convention protects wounded, sick and shipwrecked military personnel at sea during war. This convention also extends to hospital ships and medical transports by sea, with specific commentary on the treatment of and protections for their personnel.
- The Third Geneva Convention applies to prisoners of war, including a wide range of general protections such as humane treatment, maintenance and equality across prisoners, conditions of captivity, questioning and evacuation of prisoners, transit camps, food, clothing, medicines, hygiene and right to religious, intellectual, and physical activities of prisoners.
- The Fourth Geneva Convention, protects civilians, including those in occupied territory.

#### WHY INDIA DID NOT SIGN A.P. II ?

- The APII, was specifically adopted to cover situations of non-international armed conflicts, thereby bringing a situation of armed conflict occurring on the territory of a country within the framework of international humanitarian law.
- Currently API has 174 and APII has 168 signatories.

- The reasons could be mainly because these protocols have expanded the scope of international humanitarian law as provided in the four Geneva Conventions, which may have certain implications at the domestic level
- The Geneva Conventions have been ratified by 196 states, including all UN member states. The three Protocols have been ratified by 174, 169 and 79 states respectively.
- In 2019, perhaps anticipating the possibility of its invading Ukraine in the near future, Russia withdrew its declaration under Article 90 of Protocol 1 - This article expects the country to oblige and comply with any international fact-finding mission.
- Potential prosecution for war crime under GC - Under Article 8 of the Rome Statute of the ICC, it is the ICC that has jurisdiction in respect of war crimes, in particular "when committed as part of a plan or policy or as part of a large-scale commission of such crimes.
- War crimes' covers factors like - including intentionally directing attacks against the civilian population or against individual civilians not taking direct part in hostilities, such as attacking or bombarding towns, villages, dwellings or buildings which are undefended and which are not military objectives; and intentionally directing attacks against personnel, installations, material, units or vehicles involved in a humanitarian assistance or peacekeeping mission

#### RELEVANCE OF GENEVA CONVENTION

- Amnesty International, a human rights advocacy group, noted in 2019 that there has been a "blatant disregard for civilian protection & international humanitarian law in armed conflicts
- Amnesty cited the U.S.- led coalition's bombing of Raqqa in Syria, which left more than 1,600 civilians dead; destruction of civilian infrastructure and lives in Aleppo and Idlib by Russian forces, leading to mass displacement of millions; and the war in Yemen where the Saudi Arabia and the UAE-led coalition, backed by the West, killed and injured thousands of civilians, fueling a full-blown humanitarian crisis
- Geneva Conventions, even when backed by rulings of the ICC, cannot be enforced by third parties to any conflict. However, they have in the past proved effective at raising global awareness of human rights violations across conflict zones

#### ORIGIN OF INTERNATIONAL COMMITTEE OF RED CROSS

- It's origin lies in the battle of Solferino 1859
- It was the main mobilizing force behind Geneva convention
- 1949 Geneva convention provided distinct recognition to International committee of Red cross
- ICRC and its staff maintains their presence alongside the belligerent and operate on the principle of humanity, impartiality, neutrality independent and volunteerism

- It traces services for refugees & the issues of international travel documents for permanent settlements in other countries
- ICRC as received Nobel prize for peace three times - 1917, 1944 & 1963
- India ratified Geneva convention in 1950 - fifth country in the world and first country in the region
- India ratified protocol 3 but did not ratify protocol 1 and 2.
- The regional delegation of ICRC opened in India in 1982 - WHY IT'S HISTORY IN THE INDIAN SOIL BELONGS TO 1917 and the first world war
- During 1917 there was no other organisation to support prisoners of wars except Joint Committee on British Red Cross & a branch off Saint John's Ambulance Association
- A bill to introduce Indian Red Cross society was adopted in 1920
- ICRC provided services in second world war - it was active between the conflicts of India and Pakistan during 1947, 1962, 1965 & 1971
- ICRC try to intermediate between India and China war for the war prisoners as India and China both were signatories of Geneva convention 1949 - China disagreed to leave 2000 Indian War prisoners of the 1962 war
- China banned the Indian red cross society & ICRC in Tibet to deal with war prisoners
- With consistent efforts by Indian Red Cross society, icrc and Chinese Red Cross society all the war prisoners were return to home.
- India released 93000 Pakistani war prisoners of 1971 war - but Pakistan never reciprocated this action.
- India also used icrc during the LTTE conflict
- In 1985 India signed memorandum of understanding with icrc to allow them to visit Indian soils for the issues in Jammu and Kashmir
- The wikileaks cables in 2005, revealed that regional head of icrc was providing information to ambassadors of UK & US about India
- Switzerland and the ICRC have been holding talks with all states since 2012, on the best way to improve compliance with international law.
- Their work is based on a mandate given by the 31st International Conference of the Red Cross and the Red Crescent.
- States need a forum where they can decide jointly on the measures that are needed to bring better compliance with international humanitarian law.

#### PROVISIONS FOR POW

- The treatment of prisoners of war is dealt with by the Third Convention or treaty. Its 143 articles spread over five sections and annexures are exhaustive, and deal with every kind of situation that may arise for a captive and captor, including the place of internment, religious needs, recreation, financial resources, the kinds of work that captors can make PoWs do, the treatment of captured officers, and the repatriation of prisoners.
- No prisoner of war may be subjected to physical mutilation or to medical or scientific experiments of any kind which are not justified by the medical, dental or hospital treatment of the prisoner concerned and carried out in his interest.
- Prisoners of war must at all times be protected, particularly against acts of violence or intimidation and against insults and public curiosity.
- Measures of reprisal against prisoners of war are prohibited," says Article 13 of the Convention.
- Article 14 of the Convention lays down that PoWs are "entitled to in all circumstances to respect for their persons and their honour".
- In captivity, a PoW must not be forced to provide information of any kind under "physical or mental torture, nor any other form of coercion".
- Refusal to answer questions should not invite punishment.
- A PoW must be protected from exposure to fighting.
- Use of PoWs as hostages or human shields is prohibited, and a PoW has to be given the same access to safety and evacuation facilities as those affiliated to the detaining power.
- Access to health facilities, prayer, recreation and exercise are also written into the Convention.
- Parties to the conflict "are bound to send back" or repatriate PoWs, regardless of rank, who are seriously wounded or sick, after having cared for them until they are fit to travel".
- Parties to the conflict can also arrive at special arrangements for the improvement of the conditions of internment of PoWs, or for their release and repatriation.
- The Geneva Conventions have a system of "Protecting Powers" who ensure that the provisions of the conventions are being followed by the parties in a conflict.
- In theory, each side must designate states that are not party to the conflict as their "Protecting Powers". In practice, the International Committee of the Red Cross usually plays this role.