

Ø Protocols

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THE WHITE HOUSE
WASHINGTON

MEMORANDUM FOR THE SECRETARY OF STATE
~~THE SECRETARY OF DEFENSE~~
THE ATTORNEY GENERAL
THE CHAIRMAN, JOINT CHIEFS OF STAFF
THE DIRECTOR, ARMS CONTROL AND DISARMAMENT
AGENCY

SUBJECT: 1977 Protocols Additional to the Geneva
Conventions of 1949 on Protection of War
Victims

On the basis of a memorandum from the Department of State reflecting agency recommendations, the President has decided that the United States should not ratify Protocol I of the 1977 Protocols additional to the Geneva Conventions of 1949 on Protection of War Victims. Protocol I is unacceptable because it would afford legal protection to terrorists and terrorist organizations at the expense of noncombatants. It also abolishes traditional distinctions between international and non-international conflict, and it establishes an exemption for "national liberation movements" from the principle of non-use of force in international law.

The President has also decided that Protocol II, with appropriate understandings and reservations, should be submitted to the Senate for advice and consent on ratification. In addition, there are certain provisions of Protocol I that the United States desires to recognize as customary international law.

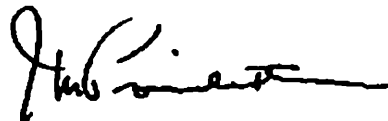
The President having decided on this position for the United States, the Departments of State and Defense are requested to consult with US NATO Allies and other friends and Allies at an appropriate, high level prior to public announcement of the US position. The Swiss Government, as depository authority for the Protocols, should be formally notified of the US intention not to ratify Protocol I and should be requested to note the fact of US intention not to ratify in its publications of national ratification status. The Joint Chiefs of Staff are requested to advise the NATO Military Committee of the US intention.

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The Departments of State, Defense, and Justice are requested to formulate and coordinate, in a timely fashion, a formal draft ratification proposal on Protocol II, including appropriate reservations and clarifications, for the President to submit to the Senate for advice and consent.

This is a significant step in defense of traditional humanitarian law and in opposition to the intense efforts of terrorist organizations and their supporters to promote the legitimacy of their aims and practices. US Government spokesmen should make the point in promoting the USG position that we are taking this step as one additional measure, at the ideological level so prized by terrorist organizations, to deny openly the legitimacy of terrorist organizations as legitimate international actors.

FOR THE PRESIDENT:



John M. Poindexter

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Europe - AP

Red Cross Fears U.S. Is Hiding Detainees



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By NAOMI KOPPEL, Associated Press Writer

GENEVA - The international Red Cross said Tuesday that it fears U.S. officials are holding terror suspects secretly in locations across the world.

The Geneva Conventions on the conduct of warfare require the United States to give the Red Cross access to prisoners of war and other detainees.

"We have access to people detained by the United States in Guantanamo Bay, Afghanistan ([news - web sites](#)) and Iraq ([news - web sites](#)), but in our understanding there are people that are detained outside these places for which we haven't received notification or access," said Antonella Notari, a spokeswoman for the International Committee of the Red Cross.

The United States says it is cooperating with the organization and has allowed Red Cross delegates access to thousands of prisoners, including former Iraqi President Saddam Hussein ([news - web sites](#)).

But Notari told The Associated Press that some suspects reported as arrested by the FBI ([news - web sites](#)) on its Web site, or identified in media reports, are unaccounted for.

"Some of these people who have been reported to be arrested never showed up in any of the places of detention run by the U.S. where we visit," Notari said.

She said she had read media reports that some people are being held at Diego Garcia, a British-held island in the Indian Ocean used as a strategic military base by the United States, but the ICRC has not been notified of any prisoners there.

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"We just simply have absolutely no confirmation of this in any formal way," she said.

The U.S. government has not officially responded to a Red Cross demand for notification of all detainees, including those held in undisclosed locations, she said.

That request was made by ICRC President Jakob Kellenberger in January during a visit to Washington that featured meetings with Secretary of State Colin Powell ([news - web sites](#)), Deputy Defense Secretary Paul Wolfowitz and National Security Adviser Condoleezza Rice ([news - web sites](#)).

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"So far we haven't had a satisfactory reply," Notari said.

An Army report on the abuses at Baghdad's Abu Ghraib prison found that military police there "routinely held persons brought to them by Other Government Agencies without accounting for them, knowing their identities, or even the reason for their detention."

On at least one occasion they moved these "ghost detainees" around the prison to hide them from a visiting Red Cross delegation, the report by Maj. Gen. Antonio Taguba said. He described the actions as "deceptive, contrary to Army Doctrine, and in violation of international law."

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In an interview in Tuesday's edition of the German business daily Handelsblatt, Kellenberger defended the Red Cross policy of refusing to comment publicly on the conditions that it finds in places of detention, preferring to negotiate directly with the authorities.

The international Red Cross came under criticism for not speaking out about the abuse at Abu Ghraib until it was revealed in the media.

"Certain people had the impression that our repeated, confidential approaches to the U.S. authorities were falling flat," Kellenberger said.

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"But impressions can be wrong. When we visited Abu Ghraib in January 2004, we found improvements compared with October 2003, and when we visited in March it was better than in January."

The ICRC has, however, spoken out on its concerns over the continued detention without trial of prisoners at Guantanamo Naval Base in Cuba.

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"I made it clear in January that we were not happy with the improvements," Kellenberger said.

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"The most recent visit has just finished. We must now study the findings."

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