

INTERNATIONAL JOURNAL OF LAW
MANAGEMENT & HUMANITIES
[ISSN 2581-5369]

Volume 7 | Issue 3
2024

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Protection of Rights of War Prisoners under International Law: An Analytical Study

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ABSTRACT

International law protects the liberties of Prisoner's of conflict regardless of the terrible cost to humanity from dispute. The UN offers an extensive structure for Prisoner care; nevertheless, because of managerial, politics, and tactical variables, implementing these rules in times of conflict can be difficult. Notwithstanding the critical role the International Panel for the Red Cross, better known as the ICRC, plays in defending the rights of prisoners of war, obstacles to its efficient execution still exist. The article examines how these rules are actually put into practice while examining the continuous challenges in defending POW rights. It emphasizes how vital it is that the global community maintain its constant watchfulness. Improving the accountability systems for transgressions of IHL, also known as international humanitarian law, is crucial in order to prevent such atrocities in future generations and guarantee victim justice. The significance of global organisations' advocacy work is emphasised in the article. These programmes encourage the study of international humanitarian law (IHL) for troops and non-governmental organisations (NGOs), support strong legal frameworks, and punish war criminals accountable. Even in the midst of ongoing difficulties, nations around the world can create a stronger framework for defending Prisoners by implementing these actions.

Keywords: POWs, Geneva Convention, War Crimes, United Nations, NGOs.

I. INTRODUCTION

The gloomy specter of battle continues to cast an ongoing shadow, leaving fields of battle strewn not just with the debris of fighting as well as with the lives lost because of the conflict. International legislation, on the other hand, has arisen as a necessary protection in the midst of the conflict of arms, minimising the greatest horrors and promoting a modicum of compassion. As a result of this merciless calculation, imprisoned individuals of war are some of the most vulnerable individuals. POW's are captured soldiers who, as a result of their extraction, discover they have fallen into the grasp of the enemy. Due to the fact that their freedoms are not a question of philanthropy but rather a legal obligation that is inscribed in international treaties,

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their fate is not merely a fortunate coincidence. It goes beyond the domain of legal declarations by conducting an in-depth analysis of the actual execution of these regulations and the difficulties that continue to be encountered in the process of ensuring that they are effectively implemented.

Nevertheless, there are several obstacles in the way of these rules' actual application. POW rights are a subject to strict enforcement under the severe conditions of war, when administrative, political in nature, and strategic issues can make compliance difficult. The ongoing discrepancies among the conceptual protections provided by the United Nations and their practical implementation on the ground are highlighted by accounts of abuse and neglect of POWs.

II. HISTORICAL BACKGROUND AND DEVELOPMENT

The handling of prisoner of battle was a cruel lottery before international legislation was codified. Captured fighters could be executed, sold into slavery, or incorporated into the ranks of the empire. Although some cultures, such as some indigenous communities, created customs of showing pity to prisoners, there were no general guidelines. The atrocities of the Peninsula War (1853–1856) planted the foundations for current POW protection in the middle of the 19th century. The International Council for the Red Cross, also known as the ICRC, was founded in 1863 as a result of Swiss industrialist Henry Dunant's vision of the appalling conditions that injured troops on both sides endured. This group was essential in promoting the idea that all war victims should receive better care since it was founded on neutrality and humanism.

A turning point was reached when twelve European powers signed the very first convention in Geneva in 1864. It featured basic amenities for prisoners of war, but its main objective was to improve the conditions of the ill and injured in the military forces while they were on the front lines. These directives said that abducted troops had to be handled gently, taken care of by their attackers, and then freed when the conflict was over. Despite its narrow scope, this pact laid the groundwork for the fundamental idea that fighters in custody were people, not criminals, who should be granted some fundamental rights and safeguards.

III. THE GENEVA CONVENTION, 1949 AND ADDITIONAL PROTOCOL

The 1949 Third Geneva Convention and its extra protocol provide the majority of the current regulatory structure for the safeguarding of POWs. The Convention provides specific guidelines for the compassionate care of prisoners of war, including requirements for their housing, food, medical attention, and family contact. It maintains the idea that prisoners of war must be

liberated and repatriated as soon as hostilities end and forbids acts of aggression, torture, and cruel treatment.

(A) The Third Geneva Convention act as a shield for the Prisoners of war (POWs).

- (i) **Human Treatment** - Each type of assault against prisoners of war, including brutal treatment, dismemberment, assassination and inhumane treatment, is prohibited by the Convention. It ensures that people's dignity is upheld by outlawing treatment that is demeaning or humiliating.
- (ii) **Condition of capacity-** POWs must be held under humane Under certain circumstances, with enough food, drink, clothes, and shelter, according to the Convention. It specifies requirements for hygienic practices, medical attention, and sanitary conditions, guaranteeing the health of their bodies. In addition, the Convention forbids forced labour outside of menial tasks associated with their confinement.
- (iii) **Interaction with the External Environment:** Prisoners are entitled to constant letter correspondence and news exchanges from their family. The Convention creates a framework to enable this kind of interaction between impartial organisations such as the International Committee for Refugees (ICRC). By doing this, Prisoners can continue to communicate with their loved ones, lessening the emotional cost that being in captivity takes.
- (iv) **Due process and Fair trials-** Prisoners convicted of crimes against humanity are guaranteed open and frequent trials under the terms of the Convention. It describes the right to legal representation by a defence attorney and forbids the use of group penalty for particular crimes.
- (v) **Restitution:** The expeditious return of prisoners of war to their home countries following the conclusion of hostilities is a cornerstone tenet of the Convention. This guarantees their swift repatriation and incorporation within the community in their native nation.

(B) The Additional Protocols of 1977: Adjusting to the Evolving Nature of Conflict

1. **Defense of external actors and Guerrilla Combat:** The conventional concept of Prisoners of War included only troops wearing uniforms. Soldiers fighting in national liberation battles and members of organized resistance forces are also covered by this Protocols. This recognizes the growing influence of non-state players in

contemporary warfare.

2. **Increasing War Crimes Transparency:** This Protocol restate governments' duties to look into and execute war crimes. They promote international collaboration in prosecuting offenders and preventing further abuses of Prisoner rights.
3. **Security of Citizens in Occupied Regions:** This Protocols deal with how people who are living in areas where an occupying force has taken over are treated. They delineate humanitarian safeguards, guaranteeing the provision of bare essentials and the preservation of their security.
4. **Prevention of Random Conflict:** This Protocol reinforces current guidelines on how operations should be conducted. They forbid assaults on citizens and civilian properties, highlighting the difference between fighters and citizens. This is an attempt to reduce civilian casualties, which is a serious issue in modern combat.

IV. THE RED CROSS INTERNATIONAL COMMUNITY: DEFENDERS OF PRISONER RIGHTS

The Geneva Convention and protocol guaranteeing the rights of prisoners of war are fundamentally supported by the Red Cross the international community. The Worldwide Committee of the Red Cross (ICRC) is a civilian organization that operates impartially and neutrally. Its goal is to ensure that international humanitarian law, also known as IHL, is applied and to lessen the misery of prisoners of war.

(A) Guardians by Examining and Observing

- **Unhindered Availability:** This covers prisons, concentration centres, and any other place where prisoners of war could be housed. These visits by unbiased representatives are an essential means of verifying that the detaining authority is adhering to international humanitarian law. When modifications are needed, the ICRC advocates for them and provides the detention authorities with a private summary of its investigations.
- **Standards of Imprisonment:** The International Committee for Refuge representatives evaluate POWs' living circumstances when conducting inspections. Assessing the sufficiency of nourishment, drinking water, shelter, sanitization, and medical treatment is part of this. They also evaluate how POWs are treated, making sure that the bans on torture, abuse, and humiliation are followed. By recording these requirements, the ICRC highlights possible infractions and puts pressure on authorities in charge of detention to fulfil their duties.

- **Family ties and interaction:** Prisoners' mental and emotional wellness is very important. An invaluable resource for easing the fears of incarceration is the ICRC's facilitation of interaction between prisoners of war and their families. In certain cases, this may entail establishing mail delivery, sending messages, and even making plans for reunions with family.

(B) Facilitate rescue and aid

- i. Impartial Economic help:** Regardless of the citizenship or reason for their abduction, the ICRC provides Prisoners with impartial and unbiased basic help. This support could come in the form of groceries, clothing, healthcare equipment, and sanitation kits. The International Committee of the Red Cross (ICRC) strives to lessen the suffering of captives and enhances their psychological health by meeting their basic requirements.
- ii. Assistance for Psychological Health:** The stress of battle and imprisonment can have a serious negative impact on a Prisoner's mental state. The International Committee for Refugees strives to guarantee Prisoners' access to psychosocial assistance and medical care. This could entail giving camp employees access to licensed psychological wellness experts or educate them on how to identify and handle mental health concerns.
- iii. Restoration of Humanity:** The International Committee for Refugees fights for Prisoners' right to be treated humanely and to retain their dignity. This could be making sure that spiritual services and cultural customs are accessible, or it could entail helping people communicate with religious authorities or ethnic leaders.

V. UTILISATION AND DEFERENCE IN MODERN DISPUTES

Although an extensive legal structure for prisoners of war rights is established by the Treaty of Geneva, the actual situation can be significantly more complicated. There were several cases where prisoners of war were treated in an excellent manner, with detained authorities complying with the Conventions' requirements for equitable care, suitable standard of living, and rehabilitation. In these situations, keeping an eye on circumstances, promoting communication, and speaking up for POWs' rights are all critical functions performed by the ICRC. But things are not always as bright as they seem. Prisoners of war rights have been violated in many and frequently horrendous ways during modern disputes, such as through assault, brief execution, and lack of access to healthcare. The emergence of outsiders who might not have ratified the treaties, the fuzziness of the distinction among civilians as well as combat in contemporary conflict, and an officer disdain for international law are some of the causes of these crimes. In addition, it is still difficult to hold violators accountable because they occasionally manage to

evade punishment. This demonstrates the continued need for the international community to be vigilant in order to protect the rights of prisoners of war, bolster the systems in place for the probe and retribution of crimes against humanity.

VI. COMPLIANCE AND TRANSPARENCY ISSUES: A STATIC BARRIER

Even with the strong constitutional foundation created by the Protocol and Geneva treaties, compliance and transparency remains a major obstacle. Although the treaties set forth explicit guidelines for the management of Prisoners, the procedures for prosecuting those who violate them are frequently deficient or politicized. The law of international humanitarianism (IHL) is weakened to its core by this ineffective regulation, which also fosters the occurrence of breaches.

Some Key Challenges

- **Insufficient Implementation Processes:** Different governments are mostly in charge of enforcing international humanitarian law. Nevertheless, a strong worldwide enforcement system is absent. The authority of the ICC (International Criminal Court) regarding criminal acts is restricted because it can only bring charges against citizens of governments that have accepted the Treaty of Rome or those that the Security Council of the United Nations refers, and even then, political vetoes may be used.
- **Politicization of Inquiries:** When major nations are present, prosecutions into atrocities have the potential to become politicised. This may result in a lack of objectivity and a refusal to hold offenders accountable, even in the face of overwhelming evidence.
- **Challenges in Collecting Proof:** It can be difficult and risky to collect proof of atrocities in the middle of warring areas. Difficulties in prosecuting offenders include eyewitness persuasion limited entry to war areas, and destruction of proof.

(A) Range of compliance and noncompliance

Analyzing certain military battles provides important context for understanding how POW safeguards are applied—or not—in the world of reality. Here are two instances that contrast with each other:

The Gulf War 1991: The Gulf War of. 1991 provides an example of acceptable the Convention of Geneva compliance. The freedoms of prisoners of war were generally upheld by both Iraqi and the alliance headed by the USA. Admission to prisons on both perspectives was allowed to The International Committee for Refuge, enabling observation of circumstances and facilitation of family communication. Following the end of conflict, a great deal of Prisoners

were quickly returned home.

The Syrian civil war (2011- present): On the other hand, continuous. Syrian War paints a horrifying image of extensive torture of prisoners of war. Allegations of breaking the laws of Geneva have been made against everyone involved in the dispute, especially international players, rebel organisations, and the government of Syria. Assault, brief conviction, and refusal of healthcare are examples of proven violations. Attempts to protect Prisoner rights are hampered by the culture of tolerance that is fostered by the absence of responsibility for such abuses.

VII. CASES AND CONTINUING CHALLENGES

1. **Prosecutor v/s Tadic 1997**, in this case the Personal legal liability for crimes against humanity, involving breaches of prisoners of war rights, was recognized by the International Criminal Court for the era of Yugoslav.
2. **Charles Taylor case 2012**, In this case the pattern for finding chiefs of government responsible for war crimes perpetrated by their subordinate forces was established by the specialised tribunal for Sierra Leone.

VIII. THE ROLE OF INTERNATIONAL BODIES

In addition to the ICRC, an extensive system of global organisations is vital to protecting Prisoners' rights. How these entities work:

- **UN (THE UNITED NATIONS):** The Security Council of the United Nations is tasked with approving peacekeeping operations and enforcing international humanitarian law, which includes protecting the rights of prisoners of war. The United Nations Bureau of the Commissioner of the United Nations for the Protection of Rights of humans keeps an eye out for abuses of human rights, such as those committed against prisoners of war, and publishes reports that draw attention to these violations and hold offenders accountable.
- **Local Institutions:** In the areas they serve, local organisations such as the Organisation of the States of America, the Organisation for Security and Cooperation throughout Europe , and the African Union are essential in fostering adherence to international humanitarian law (IHL). They can send observers on missions into hostilities, look into claims of mistreatment of prisoners, and help states apply IHL technically.
- **NGOs, or not-for-profit organisations:** Rights Defenders Monitor and Amnesty International are only two of the committed NGOs that diligently seek to record violations of the rights of people, including rights breaches committed against prisoners of war. They

carry out impartial inquiries, release comprehensive reports, and put pressure on local and global authorities to take appropriate action against offenders. Their lobbying work keeps the topic of Prisoner preservation on the international agenda and increases the public's understanding.

These multinational organisations collaborate using a variety of strategies. As to ensure that IHL is being followed, particularly with regard to the treatment of prisoners of war, the International Committee on Refugees, United Nations agencies, and local organisations frequently use a combination of field tasks, data collecting, and interaction with individuals to a conflict. These organisations publish reports that call attention to transgressions, spotlight particular abuse situations, and implore governments and international organisations to take appropriate action. These reports are essential resources for bringing attention to the condition of Prisoners and holding offenders accountable. To encourage international humanitarian law instruction for military personnel and non-governmental organisations, strengthen legal systems, and hold offenders liable, international organisations engage in advocacy. Additionally, they advocate for countries to prioritise the safeguarding of prisoners of war in international talks and to support the efforts of organisations such as the ICRC.

IX. CONCLUSION

POW are protected by an extensive structure that is provided by the added protocols and Geneva, Switzerland Regulations. In order to ensure adherence and defend the liberties of prisoners of war, the International Council for the Red Cross, also known as the ICRC, is essential. Still, there are issues in guaranteeing efficient implementation. The inability to gather sufficient evidence, politicization of inquiries, and inadequate oversight processes all impede attempts to make criminals responsible. The range of observance is exemplified by the divergent circumstances in the different War. In order to protect Prisoner liberties, world leaders must continue to be watchful. This entails bolstering the enforcement apparatus, encouraging openness in the course of investigations, and lending assistance to institutions such as the ICRC. Encouraging compliance to international humanitarian law can be greatly aided by international organisations such as the United Nation and regional associations. The global public may reinforce the barrier for Prisoner protection by supporting international humanitarian law training, fortifying legal frameworks, and bringing offenders accountable. In order to keep the problem on the international radar, NGOs are essential in monitoring and exposing violations. The entire world can guarantee that POWs trapped in the midst of battle have access to the rights outlined in those conventions by working together.

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