

Committee: Human Rights Council

Issue: Ensuring the rights and civil liberties of war prisoners

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INTRODUCTION

The issue of the proper treatment of prisoners, is one that has been around for as long as war has been waged; Individuals have been held for various purposes, such as preventing them from taking further part in the hostilities or for using them to gain valuable intelligence. Since 1660, when the term “Prisoner of War” (POW) was first coined, and after the conditions of their captivity deteriorated, it became obvious that the safeguard of their rights became a priority.

Prisoners have been, and still are, subjected to terrible methods of treatment. They are often tortured (both physically and mentally) in an attempt to get information from them. In addition, the cases where prisoners have been subjected to mandatory labor are not few. But, even if the prisoners do not interact with their custodians, they still have traumatic experiences; for instance, they have difficulty covering their basic needs while in POW camps (nutrition, medical care, accommodation) or they are simply left to die. Either way, the end result remains the same: high mortality rates, as well as the deterioration of their mental health.

The worst part is that prisoners’ anguish doesn’t always end with their release and repatriation. Upon their return, these individuals still face post-war issues. The most common of them is Post Traumatic Stress Disorder (henceforth referred to as PTSD), which is caused mainly by the events the soldiers were exposed to. They usually present symptoms such as insomnia, depression, dissociation, and they constantly revive what they went through. The severity of the disorder depends greatly on the situation the POWs found themselves in, often lasting for years after they have been set free. This is something which naturally causes issues when it comes to their “rehabilitation”, and re-adjustment to society.

Apart from psychological issues, former prisoners need to cope with social issues that may arise when they return to society, most notable of which is discrimination, as it can lead to year-long unemployment. The physical and mental traumas caused to prisoners of war as

well as soldiers and veterans as a whole, lead employers to avoid employing them thus, leading to high unemployment rates for these groups. Although some countries try to provide them with income support, this amount of money is sometimes not sufficient or in some other countries it does not even exist.

To sum up, prisoners of war have to overcome multiple obstacles both during and after their captivity. It is therefore of utmost importance for their fundamental human rights to be secured.

DEFINITION OF KEY TERMS

Prisoner of War (POW)

A Prisoner of War (POW), according to the third Geneva Convention, is a person who has been captured by the enemy power during warfare. They can either belong to the armed forces of a party involved in the conflict, be members of militias or volunteer corps, or be members of an organized resistance movement. Under this category are also considered persons that accompany the armed forces without actually contributing actively in the conflict as soldiers, such as civilian members of military aircraft crews, war correspondents, supply contractors, or members of labor units and services responsible for the welfare of the armed forces.

Missing in Action (MIA)

“The term missing in action (MIA) is a designation used to describe the status of a person whose whereabouts are unknown.”¹ It should also be noted that this is a direct result of the ongoing conflict. However, it can also be used by any organization with missing members, serving as soldiers or not. The reasons for which a member of the military becomes missing in action, range from imprisonment, to injury and death. “Until the missing person is found and identified, whether alive or dead, there is no way to know why he is MIA. Fortunately, many militaries are advancing their identification techniques and search methods.”²

¹“What does "Missing in Action" Mean?”, wiseGeek<<http://www.wisegeek.com/what-does-missing-in-action-mean.htm>>

²“What does "Missing in Action" Mean?”, wiseGeek<<http://www.wisegeek.com/what-does-missing-in-action-mean.htm>>

Civilian

A civilian is defined by the Geneva Convention's Additional Protocol II as "any person who is not a member of armed forces" and "the civilian population is comprised of all persons who are civilians". It was later amended to "a civilian is anyone who is not a member of the armed forces or of an organized armed group" and both parts were adopted by consensus in Committee III of the Diplomatic Conference which led to the adoption of the Additional Protocols. Albeit this definition not being adopted by the end of the Protocol, it remains the one most widely used.

BACKGROUND INFORMATION

Although the concept of Prisoners of War has existed since the Roman times, it was only after World War I that the safeguard of their rights and liberties was considered an issue. In modern history we can see many cases where POWs have been violated and robbed of even their basic human rights.

In early history, the defeated party (mostly civilians) was usually enslaved or killed, and as they were at the victors' mercy, would usually receive a sub-human status. As time passed, treatment of prisoners of war changed; during the Middle Ages and the 17th century, warfare underwent some notable changes. The idea of paying ransom was first introduced, and the use of mercenaries in warfare was put into practice. The treatment of civilians was also improved, for they were rarely captured as they were considered a burden. Later, in the 16th and 17th centuries, the Enlightenment movement affected the general way of thought by expressing opinions on the amelioration of the prisoners' capture conditions. More specifically, it was believed that victors had the right to imprison and enslave their enemies, but prisoners also had the right to exchange and ransom.

During the 18th century, the moral code upon this matter changed, and brought a new concept which supported that "the only right in war that the captor had over a prisoner was to prevent him from doing harm. The captive was no longer to be treated as a piece of property to be disposed of at the whim of the victor, but was merely to be removed from the fight."³

³The Editors of Encyclopædia Britannica, "Prisoner of War (POW)"
<<https://www.britannica.com/topic/prisoner-of-war/>>

World War I

During World War I, 8 million soldiers fighting at the front, as well as 2 million civilians were captured and imprisoned in camps for several years, mainly those who participated in mobile warfare. More than half of Russia's losses were estimated to be men who were taken prisoners, whereas one third of the men in the Austria-Hungary army and about 250,000 Italians were captured. About 10,000 men of the Mesopotamian Front, consisting of Indian troops, were taken by a British imperial force, and with the fall of Przemyśl fortress, over 126,000 of the Eastern Front were captured by the Russians.

The conditions in POW camps, as well as home front labor by prisoners resulted in high death rates. The main causes were battle wounds, diseases such as typhus, tuberculosis, and influenza epidemic, all of which were amplified by the exceptionally poor conditions of living that the prisoners were subjected to. As stated earlier, prisoners usually had to undertake heavy physical work, such as carrying wounded soldiers from the battlefield and doing manual work that they had been designated to carry out. This mainly involved tasks such as building infrastructure.

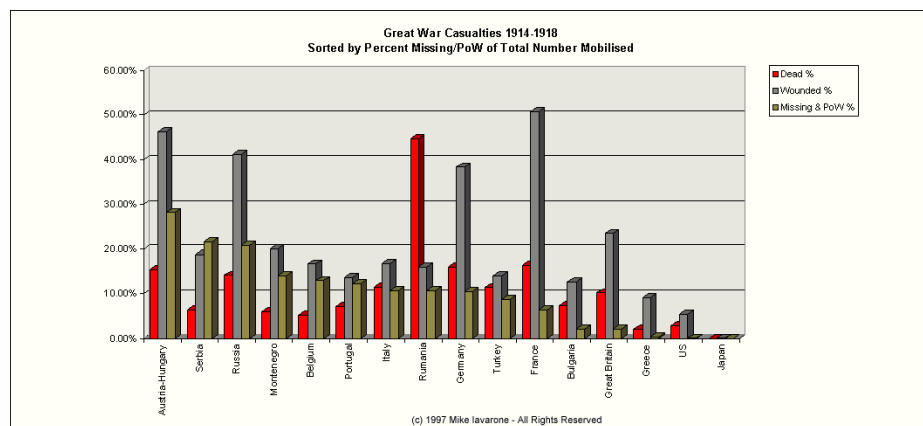


Figure1: Graph showing each party's casualties during WWI

70,000 Austro-Hungarian and German POWs were used to construct the Murmansk railway, which ended up causing the death of 25,000 of them. Similarly, almost 19.75% of the 468,000 Italian prisoners captured by Austria-Hungary died. However, out of the 4,477,024 Austro-Hungarian prisoners, only 18,049 of them died, something which implies better living conditions.

World War II

During World War II, Germany and Italy captured prisoners from France, the US and the UK. Jewish Prisoners of war wearing the British Army’s uniform were treated humanely by the Germans, as they were forced to do so. Allied prisoners of war were treated well comparatively to other POW camps, yet the extent to which their treatment was humane is highly debatable. The ones that were made to work were finally compensated and the ICRC improved life conditions by covering their needs in nutrition and medical treatment. In late 1944 the German forces ordered the transfer of thousands of prisoners to inner Germany, so as to avoid Allied armies. The rough weather conditions such as the cold, as well as the exhausting distance they were forced to walk, resulted in the death of many.

	Percentage of POWs that Died
Russian POWs held by Germans	57.5%
German POWs held by Russians	35.8%
American POWs held by Japanese	33.0%
German POWs held by Eastern Europeans	32.9%
British POWs held by Japanese	24.8%
British POWs held by Germans	3.5%
German POWs held by French	2.58%
German POWs held by Americans	0.15%
German POWs held by British	0.03%

Figure 2: percentage of POWs that died in captivity during WWII

Soviet prisoners of war were treated with cruelty, as the Germans claimed they had not signed the Geneva Convention; this was used as an excuse to act however they saw fit when it came to those imprisoned. Hence, the death of approximately 57.5% of Russian POWs (namely 3.3 million out of the 5.7 million), mainly due to exhaustion or execution. Prisoners of the Soviet Union experienced similar conditions. Thousands of Polish prisoners were executed in September 1939, while more than 20,000 Poles were killed in the Katyn Forest Massacre. As far as German POWs were concerned, only 5,000 of the 100,000 total prisoners survived. They were sent to labor camps in Russia to work under inhumane conditions where they were exposed to hunger and the Russian winter. The 8,348 out of 232,000 Allied prisoners that died in German POW camps clearly show the different treatment between the two parties involved.

MAJOR COUNTRIES AND ORGANISATIONS INVOLVED



Syria

Since the beginning of the Syrian civil war in 2011, more than 60,000 people have died in government prisons due to harassment or inhumane treatment, such as the lack of medical assistance and food. The Saydnaya prison and the detention centers, run by Syria's Air Force and governmental security forces, are known to have the highest number of deaths in

comparison with other Syrian detention centers. Government forces have arrested 500,000 people since the beginning of the war in 2011, while they have been repeatedly accused of using torture and inhumane practices, as well as illegally executing prisoners. Thus far, more

Figure 3: Disputed properties between Iran and Iraq

than 11,000 executions of POWs⁴ have been reported, yet it should be noted that the practice of

releasing prisoners and declaring them dead has also been observed repeatedly. This form of corruption has rendered most of the figures released redundant.

Islamic Republic of Iran and Republic of Iraq

After the end of the Iran-Iraq war in 1988, the Iranian forces kept 40,000-50,000 Iraqi POWs. Both countries were reported to subject their prisoners to torture and inhumane treatment (intimidation and humiliation), which often led to the deterioration of both the mental and physical state of prisoners (in some cases even to the point of death), thus, violating the Geneva Convention. Despite the cease-fire and the ICRC's attempts, no significant prisoner repatriation took place for two years. In March 1983, 6,800 Iranian POWs managed to contact their families, while in April 1998 6,000 POWs were repatriated. Although 40,000 men from each side were released, the exchanges violated ICRC's rules against one-for-one prisoner releases. Until today, only a few dozens of Iranian and Iraqi POWs have been

⁴As the civil war is waged between the government and rebel forces, those incarcerated by the Syrian government are though of POW.

returned and registered by the ICRC. According to the ICRC, 12,000 men are still reported as POW/MIA in the Iranian prisons.



International Committee of the Red Cross (ICRC)

The ICRC aims to protect both POWs and civilians, as well as to ensure the compliance of all member states of the ICRC with International Humanitarian Law

and International Humanitarian Rights Law, specifically safeguarding the fundamental rights to life, family unity, physical and psychological integrity etc. Concerning civilians, the ICRC tries to ensure their access to all the commodities (including healthcare and even education) during

Figure 4: ICRC cooperating with warring authorities during hostilities

times of war. The ICRC has been commanded by the Geneva Convention to yield places of detention to those stripped of their liberty, prisoners of war, and in addition provide them with basic

treatment and improve the conditions of life. To reassure that, delegates of the ICRC visit POW camps on a regular basis. They come across over 70 countries and 500,000 POWs every year.

TIMELINE OF EVENTS

Date	Description of Event
February 1863	Creation of the International Committee of the Red Cross in Geneva, with the help of military medical services and the social relief among its main targets
1907	Hague Regulations regarding the Laws and Customs of War on Land officially released
21 August 1914	Establishment of the International Prisoners-of-War Agency in Geneva, to which all warring parties are obliged to submit a list of all POWs held captive.
1919	Repatriation of the WWI German and Russian prisoners of war
27 July 1929	Diplomatic Conference at Geneva which led to the Geneva Convention

10 December 1948	Proclaim of the Declaration of the Human Rights in Paris by the General Assembly(Resolution 217(III))
12 August 1949	Review of the Geneva Convention and attachment of the Additional Protocol II
1998	Repatriation of more than 70,000 POWs from both sides by the end of the Iraq-Iran war
2011	Eruption of the Syrian Civil War which ended up with a total of 500,000 prisoners and 400,000 deaths (UN estimation)
2011	President Obama signs the Veterans Opportunity to Work (VOW) to Hire Heroes Act of 2011 and thus, discrimination against veterans in the job market becomes illegal
2012-2015	The ICRC takes action to empower the IHL ⁵ project.

UN INVOLVEMENT: RELEVANT RESOLUTIONS, TREATIES AND EVENTS

Geneva Conventions

The Third Geneva Convention, first formulated in 1929 and refined after World War II in 1949 and in 1977 Additional Protocol I, states the war prisoners' rights as well as the rules for their treatment and release. According to it, POWs cannot be prosecuted for participating in hostilities. Their detention's purpose is to prevent their further involvement in the conflict. At the end of hostilities, they must be set free and repatriated. The Convention also declares their protection against any act of violence, intimidation, insults, and public curiosity, and similarly their right to humane treatment as well as presenting the minimum conditions of accommodation, food, clothing, hygiene and medical care.

International Humanitarian Law (IHL)

International Humanitarian Law (IHL) is the legal framework aiming at limiting the effects that armed conflicts have on the overall population, by setting certain rules and principles. Its main principles are the protection of persons who do not participate in hostilities and the right of parties involved in an armed conflict to choose methods and means of warfare, which, it should be noted, are definite. The IHL is a part of Public International

⁵Explained thoroughly later on.

Law, which is a broad set of treaties, customary law, principles and norms, which are to be abided by all parties, regardless of circumstances.

Universal Declaration of Human Rights

The Universal Declaration of Human Rights (UDHR) legislates fundamental human rights to be globally defended. “Drafted by representatives with different legal and cultural backgrounds from all regions of the world, the Declaration was proclaimed by the United Nations General Assembly in Paris on 10 December 1948 General Assembly resolution 217(III) as a common standard of achievements for all peoples and nations.”⁶

The Uniformed Services Employment and Reemployment Rights Act (USERRA)

Once soldiers return safely from their military service, they do not always have the same luck in the field were they initially worked. They often face discrimination from employers or co-workers. To tackle that issue, the USERRA has established a legal framework to safeguard their rights to work and equal dignity. USERRA protects the job rights of civilians, veterans and members of the active and reserve components of the U.S. armed forces. It guarantees that returning veterans must be re-employed in the same position that they would have, had they not been absent for military purposes, with the same seniority, status and salary. “USERRA prohibits employment discrimination against a person on the basis of past military service, current military obligations, or intent to serve. An employer must not deny initial employment, re-employment, retention in employment, promotion, or any benefit of employment to a person on the basis of a past, present, or future service obligation.”⁷

PREVIOUS ATTEMPTS TO SOLVE THE ISSUE

ICRC Strengthening International Humanitarian Law Project

Between 2012 and 2015, the ICRC started the Strengthening International Humanitarian Law Project so as to legally protect the victims of armed conflicts. “In most scenarios, IHL sufficiently addresses the humanitarian impact of armed conflict. It is respect for the law that is lacking. Contemporary armed conflicts repeatedly demonstrate that the

⁶“The Universal Declaration of Human Rights”, United Nations <<http://www.un.org/en/universal-declaration-human-rights/>>

⁷“About USERRA”, US Department of Labor <<https://www.dol.gov/vets/programs/userra/aboutuserra.htm#whoiscovered>>

most fundamental and universally acknowledged laws of war are often disregarded, and existing IHL does not provide effective mechanisms to stop violations when they occur.”⁸

Thus, the project focuses on two aspects; the detention with innovative methods in non-international armed conflicts and strengthening compliance with IHL in general. The legal framework of the issue of detention in relation to NIAC is not at all extended comparatively with the one concerning detention in relation to IAC (international armed conflict). “The compliance track seeks to identify options for improving overall compliance with IHL, by both State and non-State armed groups. Many rules of IHL continue to be violated daily. IHL lacks strong and effective mechanisms for monitoring and promoting compliance.”⁹

POSSIBLE SOLUTIONS

Safeguarding the rights of prisoners of war has never been a matter lacking in complexity, as the existence of opposing interests between nations serve only to hinder progress. There are, however, several measures that can be taken, considering the urgency of the matter. To begin with, compliance with the Geneva Convention and the International Humanitarian Law is essential. The fact that many nations have decided to obey these measures has led to the reduction of POW deaths throughout the years. Nevertheless, there is still a number of nations that have chosen not to sign the Geneva Convention and other similar treaties, or have elected to act on their own accord, regardless of what it states. By respecting these treaties, prisoners of war will no longer be subjected to any kind of treatment that violates their rights and will be protected from harm, even if they posed a threat to one warring party. Another major aspect of the issue that needs to be covered is the treatment of psychological traumas of former prisoners as soon as they return to society, especially PTSD. PTSD is not an easy-to-cure disease, but it can be treated with complex psychotherapy methods, for example cognitive or exposure therapy, and compassion by the patient’s close circle. However, therapy does not always have the desirable effects since psychiatric traumas cannot be cured without making a tremendous amount of effort, and to cope with PTSD, sufferers may turn to drug or alcohol abuse. As far as discrimination and veteran

⁸“Strengthening international humanitarian law”, International Committee of the Red Cross <<https://www.icrc.org/en/document/strengthening-international-humanitarian-law-0>>

⁹“Strengthening international humanitarian law”, International Committee of the Red Cross <<https://www.icrc.org/en/document/strengthening-international-humanitarian-law-0>>

unemployment are concerned, there are not many things that can be done at an international level apart from signing a treaty related to the topic, which has already occurred (albeit only at a national level). What can be done is the launch of policies and programs by enterprises and the government that facilitate job searching and promote the hiring of veterans. This, in compliance with the USERRA, will hopefully wreck discrimination and help with the reintegration of veterans into society.

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