

UPHOLDING HUMAN DIGNITY AND THE GENEVA CONVENTIONS: THE ROLE OF THE
MEDIA IN PROTECTING PRISONERS OF WAR AND CIVILIAN SECURITY INTERNEES
AGAINST INSULTS AND PUBLIC CURIOSITY

The conduct of warfare, like many other forms of human activity, is regulated by a legal framework, known as International Humanitarian Law (IHL) or the Law of Armed Conflict. The four Geneva Conventions of 1949 and their Additional Protocols of 1977 are the main treaties of IHL, protecting wounded and sick armed forces personnel on land and at sea, prisoners of war and civilians. Further IHL treaties cover other aspects of warfare, such as the types of weapons which may be used or military tactics, but it is on the Geneva Conventions that this short paper focuses.

The Geneva Conventions have at their heart the concept of protecting human dignity, even in the trauma of warfare. For humanitarian reasons this law seeks to limit the effects of armed conflict in order to protect those who are not, or who are no longer, taking part in the fighting. Nearly every State in the world has agreed to be bound by the Geneva Conventions, which consequently can be regarded as a truly universal system of law.

Like all law, the Geneva Conventions are subject to interpretation. This paper puts forward a proposed interpretation of one of the rules contained in the Conventions.

The British Red Cross and the British Government made a joint pledge at the 28th International Conference of the Red Cross and Red Crescent (Geneva, 2003), the International Conference being a formal meeting, usually held every four years, of the States parties to the Geneva Conventions and Red Cross and Red Crescent organisations. The pledge was to establish and promote an up-to-date and practical interpretation of the requirement to protect prisoners of war against insults and public curiosity, set out in Article 13 of the Third Geneva Convention of 1949. This matter has been of special concern to both organisations since the first Gulf War in 1991, when British prisoners of war were shown on television, badly bruised and making humiliating statements. More recently, unfortunate photographs and television footage, such as that of the prisoners held at Guantanamo Bay or those detained in Abu Ghraib in Iraq, illustrate that the issue continues to be of general relevance and concern.

The rule that prisoners of war must be protected against insults and public curiosity set out in Geneva Convention III is repeated in Geneva Convention IV (specifically, in Article 27), which protects civilians, particularly those who are in the hands of the opposing side or of an Occupying Power.

In the main, the Geneva Conventions regulate the conduct of international armed conflicts, that is to say, armed conflicts between the armed forces of two or more States. However, one article common to all four of them also

applies during civil wars or non-international armed conflicts. This Common Article 3 imposes a general obligation to uphold the personal dignity of persons taking no active part in the hostilities during an internal armed conflict, including those in detention.

The issue

The rule protecting prisoners of war against insults and public curiosity was adopted before the widespread availability of television and the existence of modern communications technology. (For a review of the background and related considerations, see Gordon Risius and Michael Meyer, "The protection of prisoners of war against insults and public curiosity", International Review of the Red Cross, No. 295, July-August 1993, pp. 288-299). Has the meaning of "protection from public curiosity" changed in the intervening years? In 1949 those who drafted the Geneva Conventions may have had in mind that prisoners of war should not be paraded through the streets, exposed to the taunts of the local population. Today, given that images of prisoners of war may be transmitted more or less instantly into homes around the world, should we reconsider what "protection from public curiosity" entails?

In addition, this rule has not always been interpreted and applied in a consistent way. Laws whose true meaning is unclear are generally not good laws, and in this specific instance, the lack of clarity can undermine the dignity of individuals and, as a consequence, of the groups to which they belong. Thus, it would be desirable to encourage a common interpretation of the relevant provisions of the Geneva Conventions as they relate to the publication or broadcasting of any images of prisoners of war or civilian internees through whatever media.

Considerations include the following. On the one hand, a newspaper photograph or television picture of a prisoner of war or of a civilian security internee can be claimed to prove that he/she is alive, and to show his/her standard of treatment. On the other hand, such publicity can humiliate the prisoner of war or civilian security internee, endanger his/her family and make his/her return to his/her own State or community more difficult.

A practical way forward is to interpret the prohibition against insults and public curiosity as normally prohibiting the transmission of images of prisoners of war and of civilian security internees as identifiable individuals, whilst permitting images of prisoners of war and of civilian security internees who cannot be individually recognised e.g. a shot of prisoners of war marching at a distance or of the backs of civilian security internees would be acceptable.

It would also be unacceptable to show images of prisoners of war and civilian security internees in situations which humiliate or degrade them, even if they are not recognisable. Thus, it would not normally be acceptable to show hooded prisoners or unidentifiable persons in a humiliating or degrading position.

It is admitted that there can be some difficult borderline cases. For example, publication of a photograph of Saddam Hussein after capture could have been

in the public interest to prove that he had, in fact, been captured. The photographs taken of the abuse in the Abu Ghraib prison, or of emaciated Bosnian Muslims held in a Bosnian Serb-run prison camp in 1992, also raised problems. Whilst such photographs might also inflame ill feeling and may make it more difficult to attain a peaceful resolution to the respective conflict, and the individuals photographed may have felt humiliated, regardless of whether they were able to be recognised, such photographs could be argued to have stimulated public concern and ultimately, measures to stop ill treatment.

The role of the media during armed conflicts

The media provide intensive, sometimes instantaneous, coverage of armed conflicts. This can help in ensuring that international humanitarian law is respected. To be most effective, however, it is suggested that many journalists who report on armed conflicts would benefit from a better understanding of IHL. Logically, it is difficult to expect journalists to report on the relevant legal issues, or to comply with the requirements of the Geneva Conventions themselves, if they are unaware of the content of the law, or if the law itself is unclear.

It is fully recognised that proper account must also be taken of the rights of the media to freedom of expression (e.g. as in Article 10 of the European Convention on Human Rights 1950 and in Article 19(2) of the International Covenant on Civil and Political Rights 1966). However, the exercise of such freedoms carries with it certain responsibilities, and non-disclosure of individual identities or of humiliating images can be justified on various grounds, including compliance with IHL and protection of the reputation or rights of others.

A way forward

A modern interpretation of the relevant rules needs to be clear, simple to apply in most circumstances, reasonable and as objective as possible. Thus, the following general principle is suggested: any broadcast/publication of a film/photo of an identifiable prisoner of war or civilian security internee should normally be regarded as subjecting him/her to public curiosity, and should be prohibited.

In addition, it is wrong to show images of such persons publicly which humiliate or degrade them, even if they are not recognisable. The UK armed forces are, in fact, currently using such an interpretation to guide their co-operation with the media concerning prisoners of war in their custody. While they will allow filming and photography to illustrate the scale and nature of capture, they will not normally permit interviews with prisoners or allow close-up photography which focuses on individual prisoners. Similarly, they will communicate the names of prisoners of war in their custody to the International Committee of the Red Cross, in accordance with the Geneva Conventions, but will not make public this information (Please see the UK “Ministry of Defence Green Book – MOD working arrangements with the

media throughout the full spectrum of military operations”, revised November 2005, paragraphs 69-72).

The British Red Cross would like to find a way forward on this issue, encompassing the views of governments, other Red Cross and Red Crescent organisations and media professionals. It is hoped that such consultations would lead to a resolution on the topic, to be adopted by States and Red Cross and Red Crescent organisations at a future International Conference of the Red Cross and Red Crescent. Such a resolution would also appeal to States, non-State entities and to media organisations to take all appropriate steps to prevent or to stop media images of prisoners of war making statements, and would request States, with the support of the International Red Cross and Red Crescent Movement, to spread knowledge of the relevant IHL rules to media organisations and to individual journalists. A suggested draft text of such a resolution is annexed.

Contact details for comments

Any comments, criticisms or expressions of support, would be gratefully received. Please send them to:

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Thank you in advance for your interest and assistance.

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**PROTECTION OF PRISONERS OF WAR AND CIVILIAN SECURITY INTERNEES
AGAINST INSULTS AND PUBLIC CURIOSITY**

The Council of Delegates,

noting that the protection of personal dignity is a fundamental guarantee enshrined in both international humanitarian law and human rights law and applies to all persons in the power of a Party to an armed conflict,

stressing the importance of respect for the rules of international humanitarian law, including those contained in the Third Geneva Convention of 12 August 1949, requiring that prisoners of war be treated humanely at all times,

reaffirming in particular the rule that prisoners of war must be protected against insults and public curiosity as set out in Article 13 of the Third Geneva Convention of 1949,

noting however that the prohibition against insults and public curiosity must be interpreted in the light of modern communications technology,

aware of the important role of the media in helping to ensure respect for international humanitarian law,

recognizing however that media images of prisoners of war, which it is claimed provide evidence that prisoners of war are alive and of their standard of treatment, can also humiliate prisoners of war, endanger their families and make return to their own State more difficult,

recalling that prisoners of war, upon capture, are required only to give certain specified personal details for the purpose of identification as prescribed in Article 17 of the Third Geneva Convention of 1949,

deeply concerned that public declarations by prisoners of war are often made under duress and contravene Articles 13 and 17 of the Third Geneva Convention,

1. *calls upon* States and other competent authorities to interpret the existing prohibition against insults and public curiosity in Article 13 of the Third Geneva Convention of 1949 as normally prohibiting the public transmission of images of prisoners of war as identifiable individuals, and in all cases, as forbidding the public transmission of images of prisoners of war which undermine their personal dignity,
2. *appeals to* States and other competent authorities in particular to take all appropriate steps to prevent or as necessary, to stop media images of prisoners of war making statements,
3. *urges* media organisations and individual journalists to act prudently and discreetly when reporting on prisoners of war, bearing in mind the effect of publication or transmission of their work on the prisoners of war or their families,
4. *requests* States, with the support of the International Red Cross and Red Crescent Movement, to spread knowledge of the international rules for the protection of prisoners of war against insults and public curiosity to media organisations and to individual journalists,
5. *also requests* States to take appropriate measures to ensure compliance with these rules,
6. *calls upon* States, other competent authorities, media organisations and individual journalists to apply the above interpretation and measures to civilian security internees held in the custody of an Occupying Power, as provided for in Article 27 of the Fourth Geneva Convention.