



THE LAW OF ARMED CONFLICT

Logistics and rear areas





ICRC

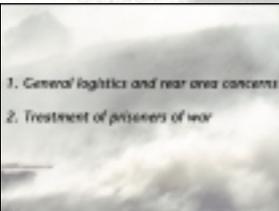
International Committee of the Red Cross
Unit for Relations with Armed and Security Forces
19 Avenue de la Paix
1202 Geneva, Switzerland
T +41 22 734 60 01 F +41 22 733 20 57
E-mail: dc_com_fas.gva@icrc.org
www.icrc.org



AIM

[Slide 2]

The aim of this lesson is to examine how the law of armed conflict applies to military logistics and rear area matters. The lesson is divided into two parts. Part A deals with general logistics and rear area concerns and Part B with the treatment of prisoners of war.

- 
1. General logistics and rear area concerns
 2. Treatment of prisoners of war

PART A – GENERAL LOGISTICS AND REAR AREA CONCERNS

We will now examine the application of the law of armed conflict to logistics and rear areas. While there are some new and specific topics to cover, for example POW camps, what has to be said is really mostly a logical follow-on from the principles we have already covered. By “logistics” we mean all military activity aimed at combat support. By “rear areas” we mean activities that take place in areas where there is normally no fighting. Nevertheless, we know that in modern conflicts military medical bases, maintenance and supply depots, etc., can very often be directly affected by the hostilities. A feature of rear area problems is the close cooperation required between military, civilian and police authorities.

As commanders or staff officers, you know how important good logistical back-up is. All armed forces need smoothly operating supply chains, planned evacuation channels that deal with the wounded and captured, and well-run rear area facilities such as hospitals and POW camps.

Without this back-up, any army will soon lose its fighting teeth. The forward commanders need ammunition, food and fuel. They and their soldiers need to know that the wounded will be rapidly and efficiently evacuated. Similarly, enemy wounded and captives must be moved back quickly, away from the front. Let us turn to the law and see what it has to tell us.

TRANSPORTATION POLICY

[Slide 3]

Any military operation requires a transportation policy and plan. Without one, there will be utter confusion and forward fighting units will not receive vital supplies. The plan must pinpoint the routes to be used for resupply and evacuation. It must include details on the specific use of your means of transport and who is in charge of them. The law prompts staff planners to keep military, medical and civilian transportation routes separate whenever the tactical situation permits, and from the practical point of view, too, it is more efficient to keep these routes separate. A resupply route blocked by fleeing refugees is not ideal. Another situation to avoid is medical transport moving to the rear being blocked and delayed by supplies moving forward.

[Slide 4]



By separating these various resupply and evacuation routes or chains, we not only improve military efficiency, we also provide a degree of protection to those granted it under the law, such as POWs, the sick and wounded and civilians. Common sense and the law therefore come together in suggesting logical courses open to logistical staff.

As far as your opponents are concerned, there is no reason why, for example, you should not notify them of the routes you will be using exclusively for medical or POW evacuation, or that you have dedicated for civilian use. It is in their interests to abide by the law as well. It would be extremely difficult to justify the bombing of fleeing civilians or a medical convoy. Killing their own wounded soldiers or those you have captured is equally futile and something they would wish to avoid.

When separate routes are not available, and this is more likely to be the case than not, then your only option is to separate military routes from those used only for evacuation in time and space. Certainly, they should never be used for both purposes at the same time. Using protected persons for the specific purpose of shielding military activity, for example, is a breach of the law. If you have organized a medical convoy, for example, you can notify your opponent that "route X will be used between 0900 hours and 1200 hours for the evacuation of sick and wounded". You could reach joint agreement on a limited cease-fire to allow refugees to move along a safe corridor.

SITING OF LOGISTIC BASES

Staff planners involved in siting logistic bases that are clearly military objectives should ensure there is sufficient distance between them and any medical facilities or civilian concentrations. It should be remembered that the bases can be attacked and any civilians working in these bases share the risk of being there.

COMBAT SUPPLIES

[Slide 5]

Combat supplies other than medical or religious items which are purchased or requisitioned become military objectives once they pass into military hands. Convoys transporting such supplies are targets even if the vehicles are civilian or driven by civilians. Combat supply depots or holding areas are legitimate military objectives. Civilian personnel working in these depots share the risks of military personnel employed in them.



MEDICAL MATTERS

As we know, the law is very specific when it comes to protection of the wounded and sick, which it **defines** as all persons, whether military or civilian, who because of trauma, disease or other physical or mental disorder or disability are in need of medical assistance or care and refrain from any act of hostility.

The wounded and sick are not just those wounded on the battlefield. They include anybody in a conflict situation in need of medical treatment, including maternity cases, newborn babies, the elderly and the infirm.

Enemy combatants who are wounded and sick and are captured become POWs but must initially be evacuated through medical channels.

GC I, Art. 14
GP I, Art. 8

The wounded and sick have **protected status**. They must be respected and may not be attacked. They must be treated humanely. The belligerents must provide them with medical care. They may not wilfully be left without medical assistance or exposed to contagious disease or infection. Priority of treatment must always be dictated by medical reasons only. That means that your own wounded do not get priority over enemy wounded – **the only** relevant criterion is the degree of medical urgency.

After any engagement, the sick and wounded must be searched for and collected. All these obligations must be carried out without any adverse distinction based on sex, race, nationality, religion, political opinion or similar criteria.

GC I, Arts. 12 & 15
GP I, Art. 33

The parties to a conflict share responsibility for ALL wounded and sick, whether military or civilian. In conflict zones this responsibility inevitably falls on the shoulders of the armed forces. The point is that commanders and the logistics staff cannot ignore civilian wounded and sick – they are entitled to the same protection as any wounded soldier. Military staff and medical services must therefore also take likely civilian casualties into account in their planning. They must be able to provide life-saving treatment and evacuate the civilians safely to hospitals in the rear.

GP I, Arts. 8 & 10

THE ORGANIZATION OF MEDICAL SERVICES AND STAFF RESPONSIBILITIES

Organization

The director of the armed forces medical services, in conjunction with logistics staff, must decide exactly how medical support is to operate in rear areas. There are essentially three possible systems of medical services in rear areas:

- completely separate military and civilian services;
- military and civilian medical services that cooperate fully by mutually admitting civilian and military wounded and sick;
- split responsibility within the same hospital or facility, with separate military and civilian wards.

Where military and civilian medical services cooperate or divide responsibility, the director of military medical services should be in command and clearly define responsibilities and priorities.

Distinctive emblem

[Slide 6]

The emblem of the red cross or red crescent (or the red lion and sun) is used to mark protected medical buildings, transports, equipment and personnel. Although these emblems are primarily for the use of military medical and religious services, they may also be used in times of armed conflict by duly authorized civilian medical units, personnel and transports. In the conflict zone, military commanders may well decide to forfeit the use of the emblem in order to camouflage positions and maintain secrecy. In rear areas this is unlikely to be a determining requirement. Logistics staff should issue instructions for the placing of the emblem on protected medical facilities. It is also entirely feasible for these facilities to be notified to the opponent to further enhance their protection.

If a building does not have a protective emblem but you know it is a medical facility, treat it as though it were displaying the emblem.



GC I, Arts. 38 & 39
GP I, Art. 18

Appeals for assistance

[Slide 7]

The military commander in the rear area may request assistance from the civilian population and organizations to help collect and care for the wounded and sick. If they respond, or do so on their own initiative, they are protected from attack and must be granted the necessary facilities to enable them to fulfil their task. The civil defence organization will certainly be called upon to work closely with the military. In addition, assistance could come from aid societies such as the National Red Cross or Red Crescent Societies. Appeals may also be made to international humanitarian organizations, such as the International Committee of the Red Cross, which are entitled to the same protection and facilities.

Regarding National Red Cross/Red Crescent organizations and other humanitarian organizations, it is important for logistics staff to understand their position and methods of working. Although willing and able to assist, they are not a military unit and should not be treated as such. **They will “cooperate”, but they are not “under command”. They are neutral, independent and impartial civilian organizations.** They should be left to carry out their work and in doing so must be protected and supported. In practical terms, logistics staff liaises with such organizations, agreeing on a plan of action once the organization’s capabilities and offer of assistance have been discussed.

No one must ever be molested (i.e. harmed) or convicted for having nursed the wounded and sick.

Captured medical personnel

When they fall into enemy hands, permanent military medical personnel do not become POWs. They do, however, benefit from all the provisions of the Third Geneva Convention. They may be retained to provide medical care for captured wounded and sick members of their own forces. They should only be retained for as long as their services are required. If there is no more work for them, they must be repatriated.

Civilian medical personnel who fall into enemy hands must not be detained and should be allowed to continue with their medical duties.



GC I, Art. 18
GC II, Art. 21
GP I, Art. 17 & 62

GC I, Arts. 28 & 30
GC II, Art. 37

GP I, Art. 15

Medical evacuation

A key responsibility of the staff in rear headquarters is the smooth operation of a system for the evacuation of the wounded and sick. We have already discussed the need for a properly organized transportation policy to cater for this. The other factors to be considered are described below.

Medical transports

[Slide 8]

In order to obtain protection, medical transports moving from the battle zone should be clearly marked with the red cross or the red crescent (or the red lion and sun). This includes all medical transports, both military and civilian, and not just ambulances. If temporary medical transports are required, they should also be clearly marked with the protective emblem. Staff must issue clear instructions for the emblems to be removed when the vehicles are returned to their usual tasks. It is a war crime to attack medical transports. It is also a war crime to use vehicles marked with the protective emblem for non-medical purposes if doing so results in death or serious personal injury.



GC I, Arts. 38-44
GC II, Arts. 41-45
GP I, Art. 18 & Annex I

Air evacuation

[Slide 9]

Rear area staff may be involved in arranging evacuations using fixed-wing aircraft or helicopters. The law contains clear guidelines on the procedures to be adopted.

Medical aircraft must be clearly marked with the protective emblem. The law also provides for the use of a blue flashing light signal to aid identification. Obviously the best option is to have both forms of protection. Medical aircraft can also use radio signals or an automatic secondary surveillance radar (SSR) system, i.e. a continuous signal, to aid identification. The full details of all these systems are contained in Annex I to Additional Protocol I.

The protection of medical aircraft depends very much on the areas they overfly.



Over areas controlled by friendly forces, no special agreement with your opponent is required. The aircraft will be recognized and protected by your forces. For greater safety, however, you might still take the precaution of **notifying flights** to your opponent, in particular when such aircraft are making flights which bring them within range of surface-to-air weapons systems.

Over the contact zone, protection is only fully effective by **prior agreement** with your opponent. This agreement includes details of the flight plan, means of identification, e.g. blue flashing light, electronic identification. Where an agreement has not been made, clearly marked medical aircraft nevertheless remain protected by the law.

Over territory controlled by your opponent, protection is only guaranteed by **prior agreement**.

As you can see, the law makes a distinction between **notifications** and **requests for prior agreement**. In both cases, you must state the proposed number of medical aircraft, their flight plans and means of identification. If you notify flights in areas controlled by friendly forces, your opponent must acknowledge receipt immediately. If you make other requests, for example if you intend to establish a prior agreement, your opponent must reply as rapidly as possible, stating whether the request has been approved or denied or proposing a reasonable alternative.

If you are not in communication with your opponent, negotiations for air evacuation can be conducted through an intermediary such as the Protecting Power or the International Committee of the Red Cross (ICRC).

Medical aircraft must not be used for other purposes, for example to collect intelligence or carry military equipment, although small arms, such as the personal weapons taken from wounded, sick and shipwrecked on board or the light weapons of the medical personnel, are permitted. Remember, medical personnel are allowed to carry such weapons only for their self-defence and for the defence of those in their care.

Medical aircraft flying over the contact zone or enemy-controlled territory can be forced to land by your opponent and inspected. If this happens, the inspection must be carried out quickly and in circumstances that do not adversely affect the casualties on board. If the aircraft is clearly being used for medical purposes, it must be allowed to resume its mission. If it is being misused, then it can be seized and the occupants dealt with as wounded and sick, POWs or retained personnel, as appropriate. Any aircraft seized in this way which had been permanently assigned as a medical aircraft may only be used for medical purposes in the future.

Not every nation can afford the luxury of having helicopters or even aircraft designated solely for medical evacuation and marked with the protective emblem at all times. In practical terms, a helicopter may be used to take ammunition forward and then to bring casualties back. How should this operational reality be dealt with? To keep within the law and to ensure protection for the sick and wounded, the helicopter must not be marked on the outward journey with the protective sign – this would amount to perfidy, which is prohibited. On the return journey with the sick and wounded on board, the crew should affix the protective emblem to the helicopter. It is a simple logistic matter to ensure helicopters are equipped with these signs, which can be stuck on as required. If for some reason signs are not available, then the flight plan should be notified to the opponent. In this way, an ad hoc arrangement can be made to protect the casualties for the duration of the evacuation flight.

GP I, Arts. 24-30

Records on the sick and wounded

The belligerents must keep accurate, detailed records of enemy wounded and sick who fall into their hands. Military staff must issue clear instructions on how this is to be done. The law requires that the information recorded be sent to the **National Information Bureau** that every country involved in an armed conflict should set up to receive and transmit information relating to the dead, the wounded and sick, prisoners of war and internees. The bureau will establish close cooperation with the **ICRC Central Tracing Agency**, the aim being to keep as careful a record as possible of the categories of people listed above and to provide information through the Protecting Power or directly to the authorities on both sides on their whereabouts, state of health or fate.

GC I, Art. 16
GC III, Arts.
122 & 123
GC IV, Arts.
136 & 137

States have a permanent legal obligation to account for those in their effective control. They may be held accountable under the law if they fail to keep accurate and detailed records.

The dead

The dead of both sides must always be respected. Their mortal remains should be recovered, especially after an engagement. Remember, forward commanders can arrange a temporary cease-fire for this purpose. Steps must be taken to prevent the dead from being despoiled. The cowardly and thoroughly unprofessional practice in some conflicts of mutilating the enemy dead to the extent that they are completely unrecognizable is prohibited. Here again, commanders and staff have a major role to play in applying the law and coordinating the arrangements required to

ensure proper respect for the dead. They must ensure the rules are complied with in practice and, if necessary, put in train court-martial proceedings against those who defile the dead.

Frontline units must be given orders relating to temporary burials, the marking of graves and the collection of personal valuables and effects. Half of double identity discs, identity cards, wills and personal items must be collected and passed back through the logistic chain to rear headquarters. If there is only one identity disc, it should be left with the body. The relevant staff unit is responsible for the recovery and subsequent burial, reburial or repatriation of the dead. In addition, it is required to compile particulars of the dead and to forward any personal effects to the National Information Bureau.

Burial or cremation is only to be carried out after a prior medical examination, the aim being to confirm death, to establish the identity of the person and to draw up a report. The bodies are to be cremated only for imperative reasons of hygiene or religion.

The dead must be honourably interred, if possible according to the rites of the religion to which they belonged. The graves are to be respected, grouped if possible according to the nationality of the deceased, properly maintained and marked so that they can always be found. Each State should set up a **Graves Registration Service** to record the particulars of burials and graves and to keep the ashes of those who have been cremated.

GC I, Arts. 15-17
GC III, Art. 120

ADDITIONAL FACTORS TO BE CONSIDERED BY COMMANDERS AND STAFF IN REAR AREAS

There are numerous additional factors with which rear area commanders and staff might become involved. The aim of this section is to mention these factors in outline. Should further information be required, the references given for each section should be read in detail. Some, you will note, have been mentioned before, as they apply both to combat zones and rear areas.

Civil Military Cooperation – obviously, military staff need to cooperate fully with the civilian authorities. Many armed forces have a special staff cell for this purpose. It is sometimes known as the **G5 cell**, or the **Civil Military Cooperation Cell (CIMIC)**. Its aim is to:

- promote harmonious relations between civilian and military authorities and to make the best use of resources;
- provide advice to the civilian authorities in order to avoid misunderstandings;

- provide assistance to the civilian population;
- liaise and coordinate activities with National Red Cross/Red Crescent Societies, the ICRC, humanitarian organizations, UN specialized agencies and non-governmental organizations (NGOs).

Specific areas of cooperation include public information policy and dissemination, relief supplies, joint arrangements for working with the civilian police, civil defence or civilian medical service, evacuation plans, the movement of civilians to safe areas, and the protection and marking of cultural objects and protected property.

[Slide 10]

Relief supplies – as you know, the parties to the conflict must allow the free, speedy and protected passage of medical and relief supplies intended for civilians, even if they are destined for the civilian population of the opposing side. Military staff have to coordinate details of routes, timing, etc., with the organizations providing supplies. They also have to ensure that military units whose areas are involved are notified of the details well in advance. Remember, the military can search consignments, designate routes and set the times for convoys. They must, however, allow relief supplies to get through.

Protected zones – we covered these zones in detail earlier (see lesson 2). The point here is to remind staff officers that it is their responsibility to establish these zones and to carry out the detailed negotiations with the opponent required to guarantee their safety and security.

Administrative measures and channels of communication – staff officers must ensure the following measures, channels of liaison and communication are set up:

Obtain translations of the relevant Conventions. You may need, for example, a copy of the Third Geneva Convention in your opponent's language. If you do not have one, ask the ICRC. Your opponent should be sent a copy in your language, i.e. for display in POW camps.

Establish links and methods of working with the National Information Bureau, the Graves Registration Service, the ICRC Central Tracing Agency and the Protecting Powers.

Your armed forces may have to **incorporate paramilitary forces or police units**. In that case, staff officers will become involved in the details, including the vital aspect of notifying the opponent – otherwise those forces may not be treated as combatants.



GC IV, Arts 23 & 55
GP I, Arts. 69-70

GC I, Art. 48
GC II, Art. 49
GC III, Arts. 41 & 128
GC IV, Arts. 99 & 145
GP I, Art. 84

GC III, Art. 122
GC IV, Arts. 136-141

GP I, Art. 43 (3)

Inform opponents, Protecting Powers and the ICRC of the geographical location of POW camps, civilian internment camps, hospitals, protected cultural property and protected zones.

GC III, Art. 23
GC IV, Art. 83
GP I, Art. 12

War booty – staff officers must issue guidelines and make arrangements for captured enemy equipment to be brought to the rear. Captured military equipment such as weapons and ammunition becomes war booty and passes into the logistical channels for disposal or future use.

GC III, Art. 18

PART B – THE STATUS AND TREATMENT OF PRISONERS OF WAR

[Slide 11]

This section covers the status and treatment of POWs in detail. It provides information from two standpoints:

- **for those who might be taken POW**, so that they are aware of their rights and the restrictions that may be placed on them;
- **for the commanders and staff in rear areas**, so that they are aware of their responsibilities under the law to the POWs in their charge.

Instructors should therefore take into account the level of their audience and the information it needs. Much of the text can be condensed. For example, you could simply state that if you find yourself in charge of a POW camp, the law provides you with answers to questions such as where to locate the camp, whether POWs are entitled to send letters and if any such letters can be censored, and what kind of food POWs must be provided with.

The facts are there for your use. Choose what is most appropriate for your audience and the aims of your lecture.

The Third Geneva Convention deals exclusively with the status and treatment of POWs and the administration of POW camps. We have covered all the details concerning initial treatment on capture and the need for humane treatment and rapid evacuation to the rear. The aim now is to focus on aspects of particular importance to the logisticians and staff operating in rear areas. We will examine the detailed requirements for evacuation and how to organize and administer the camps. These are matters that you, as a rear area commander or staff officer, might well become involved in, yet they are easily overlooked.

They should not, however, because it takes time, planning and considerable resources to get things right. An average-size POW camp takes a



battalion-size unit to run efficiently. Finding such a large number of troops at the last minute can cause staff some embarrassment. Contingency planning can and should be done in peacetime. Suitable locations, buildings, etc., can be earmarked, staff tables concerning manning and administration drawn up and kept on file in case they are required. All this is a permanent staff responsibility, and all files require periodic updating. For example, British POW regulations at the time of the Falklands/Malvinas conflict allegedly meant entitlement to a postage stamp that was useless and for an amount no longer legal tender.

If the subject is overlooked, prisoners and their safeguarding can cause chaos in rear areas. Forward commanders will not thank the staff if POWs are not rapidly and efficiently evacuated. Your opponent and the international community will not react favourably to inefficient or poor treatment of prisoners. The law lays down clear rules on how POWs must be treated. It is your duty to ensure the law is applied. Let us now look at the provisions in detail.

EVACUATION FROM FORWARD AREAS

[Slide 12]

Staff responsibility begins just behind the forward edge of the battle area with the requirement to arrange for rapid and safe evacuation of POWs to camps in the rear that are far enough from the combat zone to be out of danger. In addition, the POWs must be moved in humane conditions and in circumstances similar to those adopted for troops of the detaining power.

During evacuation, POWs must be provided with adequate food, water and clothing and any medical care they may require. Measures must be taken for their safety. They must not be subjected to abusive, intimidating or violent treatment. They must be shielded from public curiosity. Do not, for example, parade them through the streets to show off the military's success or for hostile crowds to assault them. Media interest must be controlled in order to respect the prisoners' dignity. The prisoners must not be identifiable from photographs, and they should not be forced to give interviews.

There is evidence in modern conflicts of POWs being herded into metal container trucks with no ventilation, food or water, in extreme heat. Few survived the journey to the POW camp. This constitutes inhumane treatment at a minimum, perhaps even torture or wilful killing, and is prohibited. As such, it engages individual criminal responsibility.



If it is necessary to use transit camps on the journey back to the rear area, these should be safe and secure. The POWs must be kept in these camps for the shortest time possible.

POWs can be marched if no transportation is available. The march should be within the physical capability of the prisoners. Fit, regular army personnel might cope with up to 40 km a day in good conditions over easy terrain. Weaker people or conscripts might find 20 km impossible. It is the responsibility of staff and medical commanders to consider all factors and judge accurately. Slack staff work can result in many prisoners dying en route. Excessively long daily marches caused the deaths of many POWs during the Second World War and the Korean War. Those responsible for those so-called “death marches” in the Pacific theatre of operations were found guilty of war crimes. Unlike the 1929 Geneva Convention, which prohibited marches of over 20 km (12 miles) a day, the modern law does not specify a maximum daily marching distance. **As we said, if marches are necessary, the staff, knowing the law, must ensure they are carried out safely, securely and humanely.**

Finally, regarding evacuation, military staff and medics must ensure that provision is made for wounded and sick POWs to be evacuated through the medical chain. When fully recovered, they should then rejoin their comrades in a POW camp.

GC III, Arts. 13,
19 & 20

INTERROGATION OF POWS

We have explained that POWs are required to give only their number, rank, name and date of birth, i.e. only to identify themselves. **The ICRC Central Tracing Agency** is informed accordingly and the information relayed to the prisoner's family. If interrogation takes place in rear areas, it should only be carried out by trained interrogators. Prisoners who refuse to answer questions beyond what is required of them by law must not be threatened, insulted or ill-treated.

GC III, Art. 17

It is unlawful to give particularly cooperative prisoners more favourable treatment, such as better accommodation, rations or pay, since all POWs are to be treated alike.

GC III, Art. 16

Wounded and sick prisoners may be interrogated but only if doing so will not seriously endanger their health. Medical advice should be obtained first.

GC III, Art. 13

Women POWs are to be given treatment as favourable as men and are also to be treated with due regard to their sex. This means that interrogators cannot resort to acts of violence or abuse the physical or psychological integrity and dignity of women.

GC III, Art. 14

TREATMENT WITHIN POW CAMPS

Rear area commanders and staff concerned with the administration of POW camps must ensure they fully understand the details of the Third Geneva Convention. In addition, they should study any national or military standing operational procedures on the subject. We will now cover the main provisions of the Third Geneva Convention.

Status of captured persons in case of doubt

Remember, when in doubt treat any person captured by fighting troops as a POW until his or her status has been determined by a competent tribunal.

GC III, Art. 5
GP I, Arts. 45-47

POW camps

[Slide 13]

POW camps must be sited far enough from the combat zone to be out of danger. Their location must be notified to your opponent. They should be clearly marked with the letters **PW** or **PG**. At night, these signs should be illuminated.



GC III, Art. 23

If no list of captured prisoners was established during evacuation, one must be drawn up as soon as possible.

GC III, Art. 20

Within the camps, POWs must be interned in groups according to their nationality, language and customs. All prisoners should be treated with regard to their rank. Officers, non-commissioned officers and other ranks should be accommodated separately.

GC III, Arts. 22, 44 & 45

Women POWs should be held in separate accommodation from men and similarly treated with regard to rank.

GC III, Arts. 14, 16 & 25

Child combatants taken as POWs are entitled to POW status and must be given at least POW treatment. This means in particular that they cannot be prosecuted for fighting. They must be protected against any form of indecent assault. They should be held in separate accommodation from adult POWs.

GC III, Art. 16
GP I, Art. 77

The law requires POWs to be held on premises located on land. Furthermore, except in particular cases which are justified by the interests of the prisoners themselves, they should not be interned in civilian-type jails or penitentiaries.

Staff officers should interpret this rule sensibly. The key criteria are the interests of the POWs and humane treatment. For example, there would be no objection to the use of a former civilian jail as long as all the regular prisoners had been removed and the jail met the other requirements for POW camps. Again, if for some reason a ship provides the only or the best available accommodation and protection, then the law is flexible enough to allow for its use **on a temporary basis** until better accommodation can be found. For example, during the Falklands/Malvinas conflict the British made use of a ship to hold POWs until they could be transferred to land.

GC III, Arts. 21 & 22

The camps must be clean and hygienic. They should be located in healthy areas. Washing and laundry facilities must be made available. Lavatories must be available at all times of day and night. Separate sanitary facilities must be made available for women POWs.

GC III, Arts. 22 & 29

A copy of the Third Geneva Convention, translated into the prisoners' language, must be readily available and on display for all to read.

GC III, Art. 41

Contact with the outside world

POWs remain in contact with the outside world by a variety of means.

Within one week of arrival in a camp, POWs must be allowed to fill in **capture cards**. One of these is sent to their family and one to the ICRC Central Tracing Agency. The cards give information on the POWs' capture, address and state of health. The same procedure must be used when a prisoner is admitted to a hospital or transferred to another camp. An example of the card which should be used is given in Annex IV to the Third Geneva Convention.

GC III, Art. 70

Prisoners may send and receive **letters and cards**. If a limit is imposed, then they should be allowed to send as a minimum two letters and four cards per month. They may also receive **parcels and collective shipments** of such items as toiletries, additional food and recreational articles.

GC III, Arts. 71-73

The military authorities may censor incoming and outgoing letters and inspect parcels and consignments. They should do so as quickly as possible.

GC III, Art. 76

POWs may also communicate with the military authorities in whose power they are and directly with the Protecting Power or the ICRC regarding any complaint about their conditions of captivity.

GC III, Art. 78

POWs must also be allowed to send, receive and draft **legal documents** such as powers of attorney or wills. If necessary, legal advice should be made available to them for the purpose of drafting such documents.

GC III, Art. 77

[Slide 14]

The Protecting Power of the adversary and the ICRC are authorized under the law to **visit POW camps**. The purpose is straightforward: to guarantee the prisoners are being treated in accordance with the rules of the Third Geneva Convention. It is important for staff to realize this procedure exists and to ensure that those manning the prisons are quite clear on their responsibilities towards these visitors, who:



- must have access to all places and premises where POWs are located;
- are allowed to visit POWs being transferred;
- are allowed to interview prisoners without witnesses, i.e. in private and in confidence. This precludes electronic bugging or eavesdropping.

The staff of the Protecting Power or ICRC delegates are at liberty to select the places they visit and the duration and frequency of the visits.

Visits may not be prohibited except for reasons of imperative military necessity and then only as an exceptional and temporary measure.

This system of visits applies to your opponents as well. It provides a most useful guarantee to both sides regarding the well-being of their captured soldiers. It is in everyone's interests to ensure the system works.

GC III, Art. 126

Food

It is the responsibility of logistics staff to ensure POWs are given sufficient rations and enough water to keep them in good health. The food must take account of the POWs' regular diet, meaning that neither the food nor the way in which it is prepared should offend their religious beliefs. The POWs should be involved in preparing the food and may be employed in the camp kitchens. They must be able to prepare for themselves any additional food they receive, for example in food parcels. POWs employed on hard labour must be given supplementary rations. Provision might well have to be made for supplementary food for pregnant women or nursing mothers.

GC III, Art. 26

Clothing

Clothing, underwear and footwear must also be provided. They must be suitable for the climate. POWs can continue to wear their own uniforms. Those assigned to work parties should be properly clothed for the job.

GC III, Art. 27

Medical and health matters

Each POW camp must have an adequate medical centre with, if necessary, a quarantine ward for the treatment of contagious diseases. Prisoners must have the attention, preferably, of the retained medics of their own nationality.

GC III, Arts. 30-31

Prisoners must not be subjected to physical mutilation or to medical or scientific experiments of any kind that are not justified by the medical, dental or hospital treatment of the patients concerned and carried out in their interests.

GC III, Art. 13

POWs can in some circumstances be invited to donate blood or to give skin grafts but cannot be compelled to do so.

GP I, Art. 11 (3)

Medical inspections of POWs must be carried out at least once a month. These inspections must include checking and recording the POWs' weight, general health, nutritional status, cleanliness, incidence of contagious diseases and ability to work.

GC III, Arts. 31 & 55

The law also provides for the establishment of a **Mixed Medical Commission** to examine sick and wounded POWs and make all appropriate decisions regarding them. For instance, the Commission can request the camp commandant to move a patient or exempt him from a certain kind of work, or make representations to the camp commandant concerning requests presented by the camp physician or surgeon. The Commission should be established by the State on the outbreak of hostilities and should be composed of three members, namely:

- two belonging to a neutral State and appointed by the ICRC;
- one appointed by the detaining power.

GC III, Arts. 112-113
& Annex II

Enemy military medical personnel

When they fall into the hands of the enemy, permanent military medical personnel do not become POWs. They may be retained to provide medical care for prisoners. They must at least benefit from all the provisions of GC III. If there is no longer a requirement for them to stay, they should

be repatriated. The detaining power's director of medical services should continuously monitor the need to retain enemy military medical personnel.

GC I, Arts. 28 & 30
GC II, Art. 37

Intellectual, educational and recreational activities

POWs must be encouraged to practise intellectual, educational, and recreational activities and to take physical exercise; adequate premises and the necessary facilities for doing so must be provided.

GC III, Art. 38

Religious observance and retention of enemy religious personnel

POWs are allowed to practise their religion. This includes attendance at the service of their faith and the use of religious objects, on condition that they comply with the disciplinary routine set by the camp authorities. Adequate premises should be provided to hold religious services. Religious assistance may be given by:

- captured and retained religious personnel;
- POWs who are ministers of religion but were not military religious personnel in their own armed forces;
- qualified ministers or lay persons appointed at the POWs' request and approved by the detaining power.

GC III, Arts. 34-37

Captured military religious personnel are not POWs and should therefore be repatriated. They may only be retained if there is a need for them to look after the spiritual needs of POWs of their own armed forces. In that case they must at least benefit from all the provisions of GC III.

GC I, Art. 28
GC II, Art. 37

Work

POWs who hold **officer rank** may not be compelled to work; they may, however, volunteer to do so. **Non-commissioned officers** can only be required to do supervisory work; again, they can volunteer for other work. **Other ranks** can be required to do work that is not injurious to their health, humiliating, hazardous or of a military character or purpose. Their working conditions should not be inferior to those of the nationals of the detaining power. Each prisoner must be allowed one break of not less than one hour in the middle of the day, one work-free day each week and eight consecutive paid work-free days for those POWs who have worked for one year.

The following types of work are permitted:

- camp administration, maintenance and installation;
- agricultural activities;

- industrial tasks involving the production of raw materials and manufacturing, but not heavy industry, metallurgical works, i.e. of a military nature or with a possible military objective;
- public works or construction if of a non-military character or purpose;
- transport and handling of non-military stores;
- commercial activities, arts and crafts;
- domestic service;
- public utility services having no military character or purpose.

Unless they volunteer, no POWs may be employed on labour which is unhealthy or dangerous, such as the clearance of mines or similar devices.

GC III, Arts. 49-57

Pay

POWs are entitled to dispose of their own funds and to receive and send remittances of money. In addition, they are entitled to payment by the detaining power of a monthly advance of pay and if they work, to a fair rate of working pay, so that they can buy items from the camp canteen. Detailed accounts should be kept by the camp authorities. At the end of the conflict, financial adjustments should be made between the belligerents.

GC III, Arts. 58-68

Prisoner-of-war representatives

Each camp should have a POW spokesperson who represents the POWs to the camp authorities or to such outside agencies as the Protecting Power, the ICRC and the Mixed Medical Commission.

In a camp for officers or in a mixed camp, the most senior officer is the POWs' representative. In other camps, the representative should be elected by fellow prisoners and subsequently agreed by the camp authorities.

The task is not an easy one but of great importance to the prisoners' welfare. The representative should ensure that he or she is thoroughly conversant with the Third Geneva Convention.

GC III, Arts. 79-81

The camp commandant

Each camp must be under the command of an officer of the regular armed forces of the detaining power. His or her responsibility is to ensure the camp is correctly run in line with the Third Geneva Convention.

GC III, Art. 39

Discipline

POWs are subject to the laws, regulations and orders in force in the armed forces of the detaining power. The camp commandant holds the authority to discipline them and impose disciplinary sanctions. Judicial measures can only be carried out by a military court. If the commandant's powers are insufficient under the State's military law, then an offender should be remanded to a higher authority. There is an obvious disciplinary command link from the commandant through the POW representative to the prisoners. There is also a clear need for prisoners to be briefed on the new rules they are required to obey.

GC III, Arts. 82,
84 & 96

As we have said, POW ranks must be respected and the POWs should keep their rank insignia. Equally, they must respect the ranks of their captors, e.g. they must salute officers of more senior rank and in any case the camp commandant.

GC III, Arts. 39,
40 & 87

The camp commandant or an officer who has delegated powers may apply four types of disciplinary punishment to POWs:

- a fine not exceeding half of the prisoner's advances of pay and working pay during a period of not more than 30 days;
- discontinuance of privileges granted over and above the basic privileges laid down in the Third Geneva Convention, meaning it would be unlawful to stop a POW's entitlement to regular exercise or to cut down the food ration, but his or her work detail might be changed to a more demanding or less pleasant one within the rules;
- fatigue duties not exceeding two hours per day (not applicable to officers);
- confinement.

In no case may disciplinary punishment be inhumane, brutal or dangerous to the health of the prisoner or imposed for more than thirty days.

GC III, Arts. 89 & 90

POWs put on trial are protected by numerous safeguards. Most importantly, they may not be tried and sentenced for acts which were not forbidden by the law of the detaining power or international law at the time the act took place.

GC III, Arts. 99-108
Also guarantees
listed in GP I,
Arts. 75-77

Escapes

In some armed forces escape is a matter of duty, in others a matter of honour. The law acknowledges that some POWs will try to escape and lays down certain rules to cover that contingency. They are described below.

The use of weapons against POWs, especially those who are trying to escape, constitutes an extreme measure which must always be preceded by warnings appropriate to the circumstances. A warning shot or shouts to halt would qualify as a reasonable warning. The important point is that the POW recognizes the warning for what it is. POWs who give themselves up, or surrender, in the act of escaping may not be fired at, as the reason for firing has ceased to exist.

GC III, Art. 42

POWs who escape may well rejoin their armed forces. If they are unfortunate enough to be captured a second time, they are not liable to any punishment in respect of their earlier escape. An escape is successful if the POW:

- joins up with own or allied armed forces;
- leaves the opponent's territory;
- joins a national or allied ship.

GC III, Art. 91

A POW captured while trying to escape is liable only to disciplinary punishment for the attempt. This applies no matter how many times the individual tries to escape. The purpose of this rule is to prohibit the sort of extreme punishment meted out for attempted escapes during the Second World War. Many POWs attempting to escape were severely treated and even killed.

GC III, Art. 92

While attempting to escape, POWs may have to commit acts considered to be offences. They may, for example, have to break into public property, use false papers, steal food or money, wear civilian clothes, etc. If they are caught, they are liable only to disciplinary punishment, the reason being that the acts did not actually involve criminal intent or self-enrichment – they were carried out only to facilitate the escape. This would not apply if POWs attempting to escape used violence against life or limb. A murder that was committed during an escape, for instance, can be prosecuted following recapture under the criminal law of the detaining power.

GC III, Art. 93

The law might seem a little difficult to grasp in this case. After all, a POW is a combatant and as a combatant surely has the right to carry out legal acts of war. Why not kill as many of the enemy as possible during an escape? Why not wreak havoc and sabotage and destroy the enemy's territory? Is it not a duty to do so? The answer is **NO**. The fact that such acts of war were perpetrated during an escape cannot be used as a defence if the POW is captured. Remember our earlier point concerning the rights and responsibilities of POWs. Until the termination of captivity either by release or successful escape, prisoners are subject to the legal order of the detaining power to the same extent as the detaining power's own troops.

As we have seen, therefore, the rules governing escapes are quite generous. If they are broken, however, the punishment can be severe.

Transfer of POWs to another State

The categories of sick and wounded POWs who can be sent to a neutral country and able-bodied POWs who can be interned in a neutral country or directly repatriated are complicated. The section below simply outlines the options. If more detailed information is required, the students should be advised to read the relevant articles in full.

Under the law, the detaining power has the option to transfer POWs to another country. This usually happens if it is unable to fulfil its obligations under the Third Geneva Convention, for example if there are too many POWs for it to cope with, if it is too poor to provide adequate care, or if it is unable to provide adequate medical attention to sick and wounded POWs. In an alliance situation, one country might volunteer to hold all POWs.

During the second Gulf War, the United States concluded transfer agreements with Saudi Arabia, Great Britain and France for the transfer of Iraqi POWs to Saudi Arabia. POWs can also be transferred to a neutral country.

These arrangements are only possible if the receiving country is a party to the Third Geneva Convention and if the sending country is absolutely satisfied that it will correctly fulfil all its obligations under the Convention.

Transferring POWs in this way does not relieve the detaining power of all its responsibilities. The transfer is only effective as long as the receiving State applies the Convention. If it does not, the sending State has not only a right but also an obligation to provide a remedy. It might, for example, request the return of the POWs; such a request cannot be refused. For example, the United States changed its practice of transferring POWs to South Vietnam during the Vietnam War when violations of the Third Geneva Convention became public knowledge.

GC III, Arts. 12, 109-111
& 114-115

Repatriation

[Slide 15]

Seriously wounded and sick POWs must be repatriated when fit to travel, even before the end of active hostilities. Seriously wounded and sick POWs are those who are incurably wounded and sick and whose mental or physical fitness seems to have been gravely diminished, and those who are not likely to recover within a year. No POWs eligible for repatriation in this way may be repatriated against their will.



The law states that POWs must be released and repatriated without delay at the end of active hostilities. This requires neither a formal armistice agreement nor the conclusion of a peace treaty. What matters is that the fighting has actually stopped and it can be reasonably expected not to resume.

The aim of the law here is to ensure that the detention of POWs is not prolonged unnecessarily and that they do not become pawns in political manoeuvring or bargaining at the end of a conflict.

POWs against whom criminal proceedings for an indictable offence are pending may be detained until the end of such proceedings, and, if necessary, until the completion of the punishment.

Repatriation must be carried out in an orderly manner and on the basis of a plan. Such a plan may either be concluded by agreement among the Parties to the conflict or, failing such agreement, may be set up by the detaining power. A repatriation plan must stipulate in particular the time schedule and the persons involved. A Protecting Power and/or the ICRC may assist in the repatriation procedure. Remember also that their representatives must be allowed access to the places of departure of POWs who are being transferred.

There is the distinct possibility that some POWs will not wish to go home. After almost every conflict since 1945, especially the Korean, Vietnam, Iran-Iraq and second Gulf wars, some POWs have refused repatriation. For political, economic or humanitarian reasons, large numbers of prisoners have requested to stay in the territory of the detaining power or in another State not involved in the conflict. How does a State's duty to repatriate sit with this refusal of prisoners to return home? Might such a refusal not be a ploy to hold on to prisoners?

In practice, the problem has been overcome by dealing with such POWs on a case-by-case basis. Either special commissions have been established (as in the Korean War) or the ICRC has offered its services. After the second Gulf War, the United States provided the ICRC with the names of POWs who were unwilling to be repatriated. Prior to repatriation, ICRC delegates asked each Iraqi POW whether or not he wished to return. Those who refused to return to Iraq, some 15,000 combatants, were transferred back to the detaining power.

GC III, Arts.
109-110,
118-119 & 126

POW deaths

The death of any POW in unknown or suspicious circumstances, for example during an escape attempt or at the hands of another POW, must be fully investigated by the military authorities and a report on the investigation sent to the Protecting Power.

GC III, Art. 121

Deaths require a medical examination prior to burial with a view to confirming death and enabling a report to be made and, where necessary, establishing identity. The burial must, as far as the circumstances permit, be carried out individually and according to the rites of the POW's religion.

The cremation of bodies is forbidden except for imperative reasons of hygiene or for reasons connected with the religion of the deceased. In the case of cremation, the circumstances and reasons for it must be stated in the death certificate.

One half of a double identity disc, or the identity disc itself if it is a single disc, should remain with the body of the POW or with the ashes container.

Graves must be recorded with the Graves Registration Service. They must be respected, properly marked and maintained. Any ashes must be sent to the Graves Registration Service, which must keep them until a proper disposal can be arranged in accordance with the wishes of the home country.

A full report on the death, together with one half of a double identity disc, documents of importance to the next-of-kin, money and all articles of any intrinsic value should be sent to the National Information Bureau. Any will not previously forwarded should be sent to the Protecting Power and a certified copy to the ICRC Central Tracing Agency.

GC I, Arts 16 &17
GC III, Arts.
120-122

Questions from the class

APPENDIX

Questions from the instructor to the class to confirm the lesson

1. Messing. The Third Geneva Convention generally encourages, insofar as possible, supervision of the mess by the prisoners themselves.

True or false?

Answer: true.

2. Transfer. POWs may be transferred by the detaining power to a power which is not a party to the Third Geneva Convention, if the former is satisfied that the latter is willing to apply the Convention. **True or false?**

Answer: false. POWs may be transferred only to a State that is already a party to the Convention.

3. Volunteering for dangerous work. Private Bold, a POW who is a demolition expert, volunteers to clear mines for his captor's State, Badland, in response to a circular posted on the canteen wall seeking such volunteers at a salary of 1,000 plunkits per day (around 50 US\$ or 30 £ sterling), the equivalent paid to local workers. If Badland uses Private Bold's services, it has violated the law of armed conflict. **True or false?**

Answer: false. Private Bold volunteered and the pay was in line with local rates.

4. Escape and collective punishment. Private Bold is caught while making his fourth escape attempt. The camp commandant wants to teach Bold and the others a lesson and bans all POWs from taking exercise and stops all evening meals for a week. **Permissible: yes or no?**

Answer: no. Collective punishment is not allowed.

5. Evacuation of sick and wounded. Following an attack on an enemy position, your company is regrouping. Five of your soldiers have been wounded but your company medic believes he can stabilize them until the casualty evacuation helicopter arrives in around 20 minutes. There are also five enemy wounded. The company commander orders the enemy medics to attend to them. One of the enemy medics reports that

his cases include a severe and life-threatening head wound. He asks for priority in the evacuation. The company commander says he will think about it. Was the company commander right to ask the enemy medics to care for their own wounded? What should his decision be on evacuation when the helicopter arrives? It can take only four casualties.

Answer: Yes, he may use enemy medics as long as they can cope; otherwise he must ensure they are helped. **The casualties must be evacuated on the basis of need**, i.e. the head wound must go on the first lift even if that means his own soldiers will have to wait.

EXAMPLES AND CASES

POWs/reprisals

The most notorious example of an official German reprisal concerned the shackling of POWs by the British following a commando raid in Dieppe, France, in August 1942. Numerous Germans who had been surprised by the British and who could not be immediately treated as POWs were tied up for the duration of the commando action. In retaliation, Hitler ordered that all British POWs in Germany should be similarly tied up. As a counter reprisal, the British Government ordered German POWs to be shackled. Only through the steadfast efforts of the ICRC was this vicious circle of reprisals and counter-reprisals broken.

POWs/escape

In April 1941, German Luftwaffe Captain Von Werra escaped from his POW camp in Canada to the United States, which at that time was still a neutral country. He was treated as a free man by the American authorities. The Canadian authorities wanted him back, not because he had escaped, but because he had stolen a boat to cross the border river. The United States refused because to steal a boat was an offence committed by Captain von Werra with the sole intention to escape. He had used no violence and made no threat to life and limb, his intent had not been self-enrichment, and he had damaged no public property.

POWs/forced marches, medical attention

In December 1950 in Korea, around 400 coalition soldiers were captured near Kumu Ri. Only 75 finally reached the POW collecting point. The rest died en route because of the strain of the enforced march and lack of food and medical attention.

POWs/repatriation of wounded

On 5 December 1956, during the Israel-Egypt war, two medical aircraft made available to the ICRC by Italy flew 26 seriously wounded Egyptian POWs back to Cairo. A few days later both aircraft returned to Israel with a cargo of individual and collective relief supplies for Egyptian POWs, before returning to Cairo with a second group of 22 serious cases.

POWs/use as human shields

During the 1991 Gulf War, a number of United States POWs were detained in Iraqi Intelligence HQ – an obvious and legitimate military target. About 20 other POWs were posted as human shields near Iraqi military objectives. A number of POWs were subjected to humiliating TV interviews during which they were required to talk about their mission and give their political assessment of the situation.

Source of all the above: International Institute of Humanitarian Law, San Remo, draft cases on IHL.

LAND

