
Section D

The Training of International Humanitarian Law

ICRC's Role in LoAC Training Activities Worldwide

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“War, far from being an exact science, is a dreadful and passionate drama, ruled, in truth, by some general principles, however whose result is subordinated to a crowd of moral and physical complications.”

--- A. H. Jomini

Origins of LoAC

Rules restricting the right of belligerents to inflict injury on their adversaries or providing for the protection of certain categories of persons can be traced back in nearly all the great civilizations, already in ancient times or in the Middle Ages. But it was only in the nineteenth century, when wars were waged by large national armies, employing new and more destructive weapons and leaving a vast number of dead and wounded lying helpless on the battlefield, that a “Law of Armed Conflict” based on multilateral conventions was developed.

In truth, the founding of the Red Cross in 1863, and the subsequent adoption of the first Geneva Convention in 1864, though they originated from the same proposal, did not, as such, mark the starting point of the Law of Armed Conflict as we know it today. The 1864 Convention, in the form of a multilateral treaty, codified and strengthened ancient, fragmentary and scattered laws and customs of war protecting the wounded and those caring for them. Since then, this law has developed through various stages: expanding its protection to

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those categories of persons or objects that experience had demonstrated were not adequately protected, and, also importantly, taking into account the technical and operational evolution of warfare.

A State's legal obligation

International rules cannot be effectively implemented without their enforcement through the hierarchical channels, under the domestic law of each State. Whilst this is true of any rules, however it is even more evident regarding international rules governing warfare that are meant to regulate the most intricate and intimate sphere of a State's sovereignty: the use of force. Without the adoption of appropriate measures, the impact of any regulation remains minimal.

This principle was recognised early in the different treaties and conventions that together form what is known today as the Law of Armed Conflict. Hence, by ratifying the Hague Convention IV Respecting the Laws and Customs of War on Land of 18 October, 1907, States committed themselves to “issue instructions to their Armed Forces which shall be in conformity with the Regulations respecting the laws and customs of war on land, annexed to the present Convention” (article 1).

Similarly, by ratifying the Geneva Conventions of 12 August 1949, States committed themselves to “disseminate the text” and to “include the study thereof in their programmes of military instruction”. More specifically, article 127 of the Third Geneva Convention even provides for “any military or other authorities, who in time of war assume responsibilities in respect of prisoners of war” to be “specially instructed”.

The First Protocol Additional to the Geneva Conventions of 8 June 1977, further details this obligation. It provides inter alia: that Parties shall “without delay take all necessary measures for the execution of their obligations” “give orders and instructions to ensure observance and supervise their execution” (article 80); “any military shall be fully acquainted with the text thereof” (article 83.2); “commensurate with their level of responsibility, commanders ensure that members of the Armed Forces under their command are aware of their obligations” (article 87.2)

ICRC & LoAC

Since their foundation, the components of the International Red Cross and Red Crescent Movement, in particular the ICRC and the National Societies, have co-operated with Governments in disseminating knowledge of and ensuring respect for the Law of Armed Conflict by the Armed forces. Unfortunately, practice tends to demonstrate that, on the whole, not enough attention has been paid to this obligation of dissemination. Consequently, in 1977, the *Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law applicable in Armed Conflicts*, in its Resolution 21, reminded the High Contracting Parties of their obligation to disseminate knowledge of the Conventions and their Additional Protocols. It invited the signatory States to take all appropriate measures to that end through, inter alia its teaching, “if necessary with the assistance and advice of the ICRC”, or the training of legal advisers. It urged the “National Red Cross and Red Crescent Societies to offer their services to the authorities in their own countries with a view to the effective dissemination of knowledge of IHL”.

Finally, it invited the “ICRC to participate actively in the effort to disseminate knowledge of IHL law by, inter alia: publishing material that will assist in teaching IHL, and circulating appropriate information for the dissemination of the Geneva Conventions and the Protocols; organizing, on its own initiative or when requested by Governments or National Societies, seminars and courses on IHL, and co-operating for that purpose with States and appropriate institutions.” As a result, in the second half of the 1970s, the ICRC undertook to develop a series of specialised courses for senior military officers. Within the following decade, didactic material was designed to allow for the conducting of standard courses, as practical as possible, in the different regions of the world. All these efforts, including the opening in 1989 of the first position outside of headquarters, for a Delegate to the Armed Forces of the sub-Saharan Africa based in Nairobi, culminated in 1994 in the creation of a specialised unit within the ICRC to support national authorities in their efforts to disseminate the law.

Security Forces, Police and Human Rights

Traditionally, the ICRC has focused its dissemination efforts on members of the Armed forces throughout the world. However, in view of the active involvement of police and other security forces

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in situations other than war, as well as of armed forces in law enforcement functions, it decided, in 1996, to develop an institutional policy and suitable methods for the dissemination of human rights law as well as international humanitarian law among such forces. Rather than emphasising the differences between international human rights law and international humanitarian law, the ICRC, in its dealings with police and security forces, has given preference to identifying what both branches of international law have in common. Depending upon the circumstances prevailing in the country or region concerned, the ICRC's message to members of police and security forces is based on human rights law and/or humanitarian law, and on certain domestic provisions. The content of the message, however, does not change.

Today the ICRC, besides its specialised unit at headquarters, maintains a permanent network around the world of some 25 Delegates to the Armed and Security Forces as well as to the Police. All of them have previous career or experience within the military or the police, that enables them to understand the mission and the difficulties faced by their interlocutors as well as to adequately advise on how to integrate the relevant law into their command structures and instruction system. In the year 2003 for instance, more than 30 specialised delegates conducted or took part in some 424 courses, workshops, roundtables or exercises involving some 21'644 police and military personnel in 141 countries.

ICRC support to national programs

ICRC support to national programs aims at getting the Armed, Security and Police forces ready to operate within the framework of the established norms under the Geneva Conventions and their additional Protocols, as well as other relevant international instruments, such as human rights law, to which States are party.

There are a number of necessary pre-requisites to guarantee the success of a national program. First, it must be recognized that the whole process is a **top-down** approach, involving the highest levels of the State, including the national leaders as well as a number of Ministries besides those of Defence, Security or Interior. Thus, for instance, the implication of the Culture Ministry is quite straightforward for the application of the Hague 1954 *Convention on the Protection of Cultural Property in the event of an Armed Conflict*. Within the

Armed, Security and Police forces all levels from the strategic down to the tactical are to be involved. It would be illusory to aim at the junior level expecting them to adopt required measures twenty years, hence.

Second, there must be an unequivocal **adhesion** from the highest level. This goes far beyond mere acceptance. Within the political realm, this is marked by the adoption of international legal instruments as well as of the national legislation necessary for implementation. National leaders must set the scene by insisting that the law be incorporated into the totality of the Armed, Security and Police forces planning, organisation and execution. Such an attitude ensures that all those in command of Armed, Security and Police forces know what is expected of them, while it indicates to the public and to foreign countries the Government's stand on humanitarian issues. In turn those officers in command of the different forces must issue a written order and formally appoint one of their directorates, within their staff, responsible for the design and/or conduct of a full-fledged integration programme. In this regard, experience demonstrates that the creation of a Law of Armed Conflict and/or Human Rights directorate tends to put a brake to, rather than accelerate the process. Indeed these creations usually estranged from the rest of the chain of command tend to become an end in themselves. The appointment of the operations' directorate, that is also responsible for instruction, is by far and large preferable.

Third, is the necessary national **ownership** of the program itself. Clearly the law does not belong to the ICRC, but to the State parties, the same goes for the obligation to disseminate the program. Therefore the ICRC will always aim at the Armed, Security and Police forces being equipped to conduct the process on their own, as soon as possible.

Fourth, comes **sustainability**. Besides required material resources, stability and continuity through institutionalisation of a programme, periodically renewed commitment from the highest level of the hierarchy are key. Specially so, since long-term appointment of personnel in charge, though desirable remains generally impossible. Because people in the Armed, Security and Police forces move on, technology evolves and the situations in which military force may be used are constantly reassessed by States according to their National

Security. Consequently, the fifth prerequisite is the understanding that this is a continuous, almost never-ending, process.

ICRC approach

Success in military or police operations is shaped by doctrine or policies and procedures, the way personnel are taught and trained, as well as by the means available to them. Although the obligation to teach and train is made perfectly clear under the law, it must be recognized that the mere teaching of legal norms will not lead, per se, to a change in attitude or behaviour of military or police officials in their respective operations.

Indeed the level of dissemination that was achieved in former Yugoslavia prior to the war in the 1990s was quite remarkable, at least in terms of theoretical knowledge. When it came to practice, however, it proved to have little effect. Without drawing hasty conclusions regarding that particular conflict, it must be recognised that the failure to comply with the essential norms of the Law of Armed Conflict and of Human Rights is at least as much a matter of lack of political will, insufficient skills, faulty attitudes, wrongful behaviour and lack of adequate equipment, as it is of inadequate knowledge and understanding of the contents, scope and purpose of the law. Clearly, experience shows that the crux of the problem lies in the transfer of knowledge into an adequate behaviour.

Law needs to be translated into concrete mechanisms or measures, at the doctrine or policies and procedures level, to allow for the respect of its principles, of specially protected persons and objects. In turn, these -sometimes new- technical skills or revised procedures need to be taught and trained. Finally, the necessary practical means need to be acquired in order to allow for the respect of the law. In short, doctrine or policies and procedures, teaching and education, as well as training and equipment must necessarily and constantly be addressed to ensure the respect of the law.

By way of example, a commander issued with a new mission will revert to his doctrine for a statement of principles that should prove helpful in solving battlefield problems. His ability to outsmart his adversary in that particular environment will depend on the teaching and education he received during his career path. His personal training

and the means available to him and his troops will prove decisive. Similarly, respect for the Law of Armed Conflict during operations depends on its previous integration into each and every dimension of military life.

Hence, it is not enough for a commander to be reminded through doctrine of the need to respect and protect prisoners of war, for example. He must know what concrete measures must be taken regarding such persons and how to perform these. He must have been trained to integrate this in his decision-making process and subsequent actions. Finally, all this would be in vain if he did not have the means -specialised troops and vehicles, etc- available for the protection, evacuation, interrogation or internment of captured enemies.

Doctrine or policies and procedures

Doctrine focuses on how best to employ Armed Forces in order to achieve national objectives at strategic, operational, and tactical levels. It provides personnel with a common language and a common reference point that allows shorthand professional communication. Policies and procedures focus on Police and Security forces' responses to situations at the strategic, operational and tactical levels. These guidelines provide personnel with a common approach. Doctrine, policies and procedures are authoritative but require judgment in application. They are periodically revised.

Together with its supporting instruments - tactics, techniques and procedures - doctrine must be in accordance with national legislation that in turn embodies international treaties and conventions. It must encapsulate the principles of the Law of Armed Conflict and provide concrete measures and means for the respect of specially protected persons and objects. The revision of manuals, in particular those for staff work, are key to the respect of the law within the decision-making process. The different directorates and appointments within the staff must be made aware of their respective responsibilities for the respect of specially protected persons and objects. By way of example, to limit oneself to the appointment of the Head of personnel for captured persons at large remains inadequate.

Indeed each and every staff appointment or directorate has one item or another to deal with in this matter. To name a few: *Personnel* is

responsible for the lists of captured persons; *Intelligence* must define the documents to be searched for; *Operations* must give orders for the use of war booty seized; *Logistics* must transport prisoners and a fifth appointment might have to shelter and guard them. Therefore, besides making one directorate responsible for prisoners, it is paramount to make sure that procedures provide with the necessary mechanisms of coordination between the different directorates or appointments, so that no issue is overlooked and the commander has all the necessary information available in a timely fashion.

The revision of doctrine must be thorough. Undoubtedly, intelligence is key for the success of any operation. The same goes for the respect of specially protected persons and objects or the identification of military objectives. If these are not located and positively identified at the earliest time, they will not be properly taken into account in the planning of the operation. Conversely, if they are not monitored during the operation, there is little prospect for the sparing of specially protected persons and objects. Therefore, the technical manuals of the intelligence officers as well as those of the reconnaissance units must detail this specific responsibility.

At the junior level, a simple way to make sure that decision-making takes into account the law is to review it not only according to the METTT (mission, enemy, terrain, troops and time) factors, but also to the principles of the law. Therefore, five questions or principles should be answered. **Necessity:** is the application of force necessary? **Distinction:** is the target a military objective, is this a combatant? **Limitation:** according to the circumstances or nature of the objective, is the use of the weapons available limited or prohibited? **Proportionality:** is the chosen course of action the one that will produce minimum losses or damage to the civilian population, its goods or the environment? **Deception:** will the chosen course of action risk making the enemy believe that he is entitled to protection or that he has to grant such a protection?

Teaching and education

Teaching and education focus on providing personnel with theoretical knowledge on what to do. The proportion of theory and practical instruction is determined by the participants' basic training level and rank within the hierarchy. Generally speaking, an increasingly

academic approach can be adopted the higher the rank and level of responsibility of the audience. The requirement to teach the Law of Armed Conflict is a clear obligation. Such teaching however must be convincing, there must be no doubt left about the necessity for respecting the law. Respect of the legal framework being a matter of discipline and leadership, or of professional ethics, its teaching fits in logically with the education given at each and every step of an NCO or officer's career. Therefore it must intervene as early in the education process as possible and be continuous.

Moreover, teaching must be selective and tailored to the needs of the audience, according to their rank, service, branch or occupation. Finally, it must always be practical and realistic. Besides teaching the law adapted to all levels, its principles as well as mechanisms and means for the respect of specially protected persons and objects must become an integral part of all matters taught. Thus, for instance, the tactics' professor at the Command and General Staff College, while teaching offence or defence, must detail all feasible measures to be taken for the respect of the law and in particular for the sparing of non-combatants as foreseen by revised doctrine and its supporting instruments. NCOs and officers must be educated in referring to the principles of the law for the revision of their decisions, until it becomes second nature to their thinking in the same way it is done with the METTT factors.

Training and equipment

Training and equipment focus on providing personnel with practical experience of how to do. It must enable personnel to acquire practical experience by practicing and implementing the principles of the law, as well as the concrete measures and means for the respect of specially protected persons and objects, as provided by doctrine, tactics, techniques and procedures. As already highlighted, the proportion between theoretical and practical instruction is determined by the participants' basic training level and rank within the hierarchy. However, it has been proven that the most effective instruction method is still practical exercise. Training enables participants to retain nearly 90% of the contents weeks later. This training must lead to the acquiring of correct reflective behaviour. This cannot be achieved except by repeated practice. The person best suited and the

most effective for inculcating such behaviour is the officer directly in charge.

There is little doubt that training must be as practical and realistic as possible, as much for the success of future operations as for the respect of the law. In this regard, the training facilities must reflect reality. Therefore, for instance, field training or soft-ware for Computerised Tactical Training Centres for fighting or operating within built-up areas must necessarily include the presence of civilians for the possible practice of a correct application of the principles of distinction and proportionality. Equipment naturally provides personnel with the necessary assets enabling them to fulfil missions in accordance with the Law of Armed Conflict or Human Rights.

The obligation to determine whether the employment of a weapon would in some or all circumstances be prohibited by the First Geneva Additional Protocol or some other rule of the Law of Armed Conflict belongs to the highest hierarchical level. This level must provide members of the Armed, Security and Police forces with means and methods that are legal. Training, in turn offers the opportunity to put equipment at test in a situation as close to reality as possible in order to check whether it allows for the compliance with the law. Beyond weaponry, an exercise where the troops are to search for, treat and evacuate casualties during and after combat will show whether the means of the medical unit are sufficient and adequate. Hence, wheeled ambulances may prove unfit for terrain that was previously tilled by heavy track vehicles such as main battle tanks.

ICRC support activities

ICRC support traditionally focused on the teaching of the Law of Armed Conflict and, later, of Human Rights. Typically it used to provide “sensitisation courses” for senior officers, aimed at raising the awareness of their legal obligations. These took place in different locations, either at national level or abroad, in such places as the International Institute for IHL in San Remo, or in Geneva, as was the case for a series of international Heads of Training Conferences held there. Typically, it provided “train the trainers” courses, with the aim of teaching the law to instructors, in order to equip forces with personnel and material to initiate their programs.

For obvious reasons, the ICRC does not feel confident with the training proper of Armed, Security and Police forces. In turn, these forces are not too keen on sharing their doctrine or policies, tactics, techniques and procedures. However, thanks to the excellent relationships of trust that built up over the years between specialised delegates and their counterparts, both sides have come to recognise the complexity of the issue. Delegates in different parts of the world were able to develop more substantial and productive activities beyond the mere teaching of trainers.

Thus, ICRC personnel has become increasingly involved in field and computerised command post exercises. In these, delegates portray the organisation and its activities, as well as working with the exercise controllers to ensure that the law is trained. The increasing number of such international events lead to the creation of a pool of specialised personnel that now dedicate themselves exclusively to such activities. Contacts were also made with those private companies that are regularly contracted by some States for producing international exercises.

Several forces do share their Law of Armed Conflict or Human Rights manuals for comment or revision by the ICRC. In some instances delegates were entrusted with the review of other doctrinal documents. Thus, in Guatemala, comments could be made regarding the new national military doctrine in 2000. Two years later, the Royal Netherlands Army/Air Force shared with the ICRC its Joint Air Manoeuvre Evaluation Manual for the joint airmobile division that they maintain together with Germany. This manual integrates the Law of Armed Conflict. The review of the compliance with the law is now, for them, a standard procedure for the different phases of any exercise.

Delegates also advise the Armed forces on designing new material, such as manuals or teaching files, and also those involving more advanced technologies, such as movies or interactive CD-Roms and DVDs. In El Salvador, cooperation went as far as advising on the production of an additional software for the Computerised Tactical Training Centre to allow for the training of the application of the law. As a result, any staff trained there must now distinguish between civilians and combatants, choose their course of action and face the

potential consequences of their actions accordingly, since the computer is able to generate civilian casualties.

Conclusion

According to Clausewitz's dictum: "*a great part of information obtained in war is contradictory, a still greater part is false, and by far the greatest part is uncertain*". To overcome uncertainty professionals of the use of force, be they Armed, Security or Police forces are obliged to define clear doctrine or policies, tactics, techniques and procedures. They must teach these to their personnel and train them accordingly. They must be equipped adequately for the different missions they may have to fulfil. The same goes for the Law of Armed Conflict and Human Rights.

Nowadays, in an era of diffused and unclear threats, in the face of terrorism, professionals face new uncertainties. The temptation is great for some to justify the means by the ends. However, while the need to adapt tactics is unquestioned, the renouncement of ethics will prove counter-productive in the long-term as the Armed, Security and Police forces' professionalism will always be measured against the backdrop of their respect for the legal framework.

Finally, on such an occasion, one could not fail to conclude without a quotation from Sun Tzu: "*If we want glory and success to accompany our arms, we must never lose sight of: the Doctrine, the Heaven, the Earth, the General, the Discipline.*"

Implementing the Instruction of LoAC with Consideration of National Culture and Modern Wars

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Training and educating armed forces with LoAC is not only an obligation of LoAC, but also the internal necessity of their construction.

To train and educate armed forces in the law of armed conflict (LoAC) is a legal obligation required by the international laws. The Geneva Conventions and other laws concerning armed conflicts clearly provide that high contracting parties have the obligation to disseminate LoAC among their armed forces and make them be familiar with LoAC. According to Article 83 of Protocol I Additional to Geneva Conventions, “the High Contracting Parties undertake, in time of peace as in time of armed conflict, to disseminate the conventions and this protocol as widely as possible in their respective countries and, in particular, to include the study thereof in their programmes of military instruction and to encourage the study thereof by the civilian population, so that those instruments may become known to the armed forces and to the civilian population.” The same or similar provisions can also be found in Article 47 of Geneva Convention: Article 48 of

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Geneva Convention II, Article 127 of Geneva Convention III, Article 144 of Geneva Convention IV, Article 19 of Protocol II Additional to the Geneva Conventions, and Article 6 of the 1980 Convention relative to certain conventional weapons.

To train and educate armed forces in LoAC is also the internal necessity of armed forces and their officers and soldiers. In armed conflicts, forces and combatants have the imperative “military requirement” and the strong “humane requirement” as well. It is in the process of seeking the two requirements by the armies of all the countries that LoAC has been formed into an international custom and protocol. As is clearly stated in the 1868 St. Petersburg Declaration, in time of war, the belligerents should be “sufficient to disable the greatest possible number of men”, while “the employment of arms which uselessly aggravate the sufferings of disabled men, or render their death inevitable” would exceed this object, and therefore, “be contrary to the laws of humanity.” According to the convention respecting the Laws and Customs of War on Land drawn up by two successive international peace conferences held in Hague in 1899 and 1907, the wording of every provision “has been inspired by the desire to diminish the evils of war, as far as military requirements permit.” And this essential spirit has been implemented in other conventions of LoAC drafted afterwards. LoAC has adjusted the “military requirement” and the “humane requirement” to be balanced and satisfied armed forces and military persons in seeking the two basic requirements simultaneously, which was difficult to get before.

For the Chinese People’s Liberation Army (PLA), training and educating its units in LoAC is a necessary requirement of its guiding ideology, nature, aim and function. LoAC is a legal reflection of human civilization and humanity in law, which is what mankind has thus achieved when modern people are faced with a war. The PLA takes the progressive ideology and revolutionary spirit, that represent the highest achievement of the world civilization, as its soul, takes serving the people wholeheartedly as its sole aim, and takes defending the sovereignty, unity, territorial integrity of its country and the fruit of its people’s peaceful labor as its function. All of this is in accordance with LoAC essentially. Accordingly, the PLA will not reject LoAC or ignore it. On the contrary, it will sincerely welcome it and try its best to implement it. This is not only a theoretical logic but also the PLA’s

habitual practice. The PLA is adhering to the principle in running its units with laws, which includes LoAC. Hence, training and educating the PLA with LoAC is certainly a part composite in running the PLA troops.

In training and educating the PLA troops in LoAC, we have soldiers as the foundation and officers at all levels as the key elements. Only when the officers have a good master of LoAC can they well organize their troops in learning and practicing LoAC in peacetime and well lead and command their troops in abiding by and application of LoAC in war time. The Xi'an Political Academy, under the direct leadership of the General Political Department (GPD), is the LoAC training base for instructing all the PLA officers as well as the center of the PLA in disseminating LoAC and training LoAC instructors. Every year in the academy, nearly one thousand officers attend the LoAC course and nearly one hundred military lawyers and other military legal workers undertake LoAC training; besides, the academy also provides the PLA with LoAC instructors and some specialized persons with MA or PhD degrees in the research direction of LoAC.

With consideration of the generality, instructing the PLA officers at all levels and of all sorts with LoAC with a focus on their needs for different positions

The sole purpose of training and educating the PLA units in LoAC is to make sure that, in case of any armed conflicts, it will abide by and implement LoAC correctly. The LoAC system is sophisticated with abundant contents while the officers participating the training have different ranks and positions. Therefore, to reach a common understanding, our instruction of LoAC is only focused on making them know the essence of LoAC well, but also on the their needs for their positions, namely, meeting different needs while solving the common problem.

We hold workshops to help our trainees to understand and master the spiritual essence of LoAC, and also help every trained officer have a confident belief in conviction of LoAC and master the regulations and rules of LoAC as to improve their ability of applying LoAC in battlefields. What is the spiritual essence of LoAC? We think that it is to balance and adjust “military requirements” and the “humane requirement”, to avoid “unnecessary suffering” and to diminish the

evils of war. If one understands the spiritual essence, he will know that LoAC is not to fulfill the “humane requirement” by eliminating “military requirement”, instead, it is to guarantee the fulfillment of the “humane requirement” by prohibiting the employment of arms which exceeds the “military requirement”, and he will know that the prohibition and restriction of the employment of arms is completely in accordance with the strategy of winning over the masses and allies and with the tactic of “concentrating fire on a target”.

Once knowing this essence, one can understand that the “humanitarian value” of LoAC is naturally integrated with “military value”, and clear up the misunderstanding that “military operations can only be conducted without the compliance with LoAC, and if LoAC is followed, no operations can be conducted”. Firmly complying with and implementing LoAC will not hinder the success of winning a war; instead, it helps winning a war and achieving the political goal of the war. Gripping this spiritual essence thoroughly means the general understanding and grasping of the principles and rules of LoAC, which provides a solid basis for the implementation of LoAC in various and complex situations.

Officers of different ranks and sorts undertake different responsibilities in armed conflicts. To guarantee the implementation of LoAC in any armed conflict, they must know very well the rules and regulations of LoAC relevant to their own responsibilities and keep firmly in mind their duties and responsibilities related to their posts as is stated in LoAC in time of armed conflicts. To fulfill the two requirements, a multi-layered LoAC curriculum has been established, including lectures on topics, chapter instructions, optional courses, required courses, and courses for graduates, to ensure that our trained officers of different sorts, at different levels, and of different duties can obtain proper LoAC training so as to meet PLA’s needs of comprehensive LoAC personnel at all levels.

Implementing the instruction of LoAC with consideration of national culture and modern wars

In the most common sense, legal issues are cultural issues. Undoubtedly, LoAC, especially its modern development, is a great achievement of world civilization, in which there is no national cultural boundary but the cream of the cultural system of all nations

in the world. LoAC is internally related to the excellent culture of the Chinese nation, and is completely consistent with the glorious tradition of the PLA. In the past 50 years, China has made great contribution to the enrichment and development of LoAC. While instructing LoAC, we have been trying to keep it close to Chinese culture, especially to the culture of China's military science and the glorious tradition of the PLA, attempting to show their consistency. Chinese culture has extensive knowledge and profound scholarship, with "benevolence" as its basis.

What is "benevolence"? Basically, it is "to love people". Based on this, the culture of China's military science has been formed. To be brief, China's armed forces are of "benevolence and up-righteousness". Its gist is to prevent violence and remove evil, and to show solicitude for civilians and treat prisoners of war well. According to this thought, we instruct the rules of humanitarian protection with the culture of "benevolence and up righteousness" as the background. We explain the regulations on prohibition and limitations of operational means and methods together with our traditional thought of that "*if we can succeed in stopping infringement and violation, why should we focus on killing and wounding more?*". We teach the Geneva Convention Relative to the Treatment of Prisoners of War and the regulations on the protection of prisoners of war (PWs) in Additional Protocol I together with the PLA's policy and practice of treating PWs well.

We also instruct our officers that accurate implementation of LoAC does no harm but good to winning wars by illustrating and analyzing the famous battles in Chinese history, such as the battle of Hongshui between the states of Song and Chu, the battle of Chengpu between the states of Jin and Chu during the Spring and Autumn Period. In the former battle, King Xiang of Song State was divorced from reality and rigidly adhered to the discarded operational rules and eventually lost, while in the latter battle, King Wen of Jin State integrated his operational commanding with honoring a formerly promise, "retreating his troops ninety li (45km)" to show his honesty, thus he won the battle at last. Such an instruction convinces our trained officers that LoAC is not "something imported" from a strange world but from the same family of Chinese excellent tradition and culture, Chinese military thoughts, and the glorious tradition of the PLA. In this way LoAC then takes its root in our officers' minds.

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We know that our culture can only help solve the problem of “acceptance” of LoAC, but not the problem of its proper application. To solve this problem, we must face our instruction up to modern wars and put the LoAC instruction into the “actual combat” of modern wars together with the “operational means and methods”. We have been trying to combine the dissemination of LoAC with the operational exercises and combine the study of the provisions of the conventions and protocols etc. with the study of actual wars so as to convert theoretical knowledge into practical capabilities, thus helping our trained officers acquire not only the knowledge and consciousness of LoAC but also the abilities to implement LoAC correctly in armed conflicts.

In the great works *How Does Law Protect in War*, which was published by the ICRC in 1999, Confucius, Sage of Literary Arts, and Sunzi, Sage of Military Arts are quoted, which shows that the thought of LoAC is time-honored. Confucius says, “Do not impose on others what you yourself do not desire.” And Sunzi says, the captured enemy soldiers should be “well treated and supported”. Our PLA has fully inherited and developed this great humanitarian tradition handed down from our ancient times. As the base of the PLA for publicizing LoAC and teaching, under the direct leadership of the GPD of the PLA, the Xi’an Political Academy will continue our cooperation with the ICRC, try its best to do a better job, and make more and more contribution to the dissemination, popularization and development of LoAC.

Chinese PLA's Dissemination and Promotion of LoAC

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I am S. Col. Zhang Gongxian, Chief of the Secretariat of the General Office of the General Political Department (GPD) of the Chinese People's Liberation Army (PLA), the chief representative of the PLA to liaise with the International Committee of Red Cross (ICRC), and in charge of the organization and coordination work of disseminating and promoting the Law of Armed Conflict (LoAC) in the PLA. I would like to take this opportunity to introduce what the PLA has done in disseminating and promoting LoAC. For years, PLA has attached great importance to the cooperation with the ICRC. In the aspect of disseminating and promoting LoAC, we have made active efforts and achieved obvious success. What the PLA has done mainly includes the following activities.

Instructing LoAC in military academies

LoAC has its own place in the curriculum system of the relative academies of the PLA. It is a part of our textbooks. It is instructed in class. The main forms of the instructing are as follows:

First, **co-hosting workshops**. The PLA started its cooperation with the ICRC in 1991. Since then, a workshop on LoAC for the PLA instructors has been held every two years in one of the academies of the PLA. Up until now, seven workshops have been held in the Xi'an Political Academy, the Nanjing Political Academy, the Guangzhou Academy of Naval Vessels, the Shanghai Political Academy of the Air Force respectively, and totally more than 200 officers have been trained. These people trained were unit commanders, staff officers, instructors of military academies, and officers engaged in the teaching and research of LoAC. Now, they have become the backbone of the PLA in disseminating and promoting LoAC.

Second, **inviting ICRC officials to give lectures on LoAC**. In order to have PLA officers at all levels understand and master LoAC, we have planned and arranged some international officials and PLA experts

in recent years to give lectures on LoAC in different academies. In particular, the National Defence University, the highest PLA military institution, the Shijiazhuang Army Command Academy, which trains regiment and division commanders, and some junior academies such as the Shijiazhuang Military Academy, Dalian Naval Academy, and the Air Force First Flight College in Haerbin, which train platoon and company commanders and pilots.

Third, **establishing an LoAC training basis for the PLA.** In the Xi'an Political Academy of the PLA, the Military Law Department has been established. It undertakes the task of training professional legal personnel for bachelor, master, and doctor degrees. Moreover, LoAC is a course of the curriculum for the postgraduates who study for master and doctor degrees. To further strengthen the teaching and research of LoAC, in 2000, the GPD appointed the Xi'an Political Academy as its LoAC training base. The Academy has done a lot of highly-effective work in the aspects of training LoAC specialized personnel, especially in training junior and intermediate commanders and legal officers in LoAC, and in doing research on LoAC.

Fourth, **organizing training courses on LoAC.** According to the PLA's fact that the headquarters of the PLA units at brigade level and above have lawyers, a "Military Lawyer Class on LoAC" has been held every year since 2002. Each time with 60 to 80 military lawyers from different units trained. Such classes will continue to be held in the future. Those participants, in peace-time classes, are in charge of the instruction of LoAC in their units, and in war time, they are the legal advisers of their commanders in the planning of operations.

Fifth, **offering LoAC courses.** At present, LoAC has become a part of the teaching curriculum of some PLA academies. Besides the Xi'an Political Academy I just mentioned, there are many other academies offering LoAC courses. For example, at the National Defence University there is an International Law Teaching and Research Section, which offers LoAC courses to senior officers as well as foreign officers being trained there. Shijiazhuang Army Command Academy offers a required LoAC course in Attack and Defence Operations at Regiment and Brigade levels. Dalian Naval Academy has been offering a course on the Law of War at Sea. One of our main ways to disseminate and promote LoAC is to instruct LoAC in academies.

Attaching importance to instructing LoAC to PLA troops

The education of LoAC in the PLA troops is usually done with the combination of political education and military training. All PLA soldiers will get different kinds of education after they join the ranks of the PLA, including political education and such disciplinary education as the “Three Main Rules of Discipline and the Eight Points for Attention.” To implement the policies of protecting civilians in war time, treating PWs leniently and other rules of LoAC, additional to the normal education, the PLA combines the LoAC education with training and maneuvers. In the military maneuvers, the establishment of prisoners of war (PW) collecting posts is an indispensable training subject, the aim of which is to practice collecting, protecting, managing PWs in battle fields and treating wounded PWs. At the same time, the task group for civilian population is set up to examine and supervise disciplines on the battle field and the protection of civilians and their property as well.

In recent years, we have translated and published many publications on LoAC, including the *Geneva Conventions and their Additional Protocols*, *Law of War at Sea*, *Files on the Law of Armed Conflict*, *Pleading for Humanitarianism*, *Fighting according to Law*, and so on. These publications, as the spreading and promoting references of LoAC, have been distributed to the PLA troops. Besides, PLA’s LoAC training has been filmed to disseminate LoAC and educate soldiers and officers in a direct and vivid way. We have also made a disc entitled “LoAC Issues in a Map-Exercises of Attack and Defence at Regiment and Brigade Levels”, compiled and distributed *Collection of Selected Rules and Regulations of Military Conflicts*, Handbook of Laws in Military Conflicts, in which relative international laws and domestic laws are included. In addition, we have compiled and published *Collection of the Law of War*, printed *LoAC Soldier’s Cards* and distributed them to our troops.

Strengthening the communication and cooperation with the ICRC and other institutions involved in the teaching and research of LoAC

We often invite ICRC officials to give us academic lectures and we actively attend some important conferences organized by the ICRC. In June, 2004, for example, we sent a delegation to participate in a *Conference for Officers in Charge of Military Training* held in Geneva and gave a presentation; in July, 2004, we sent representatives to

participate in an event held by Hong Kong Red Cross Society and introduced the PLA's dissemination and promotion of LoAC; in 2003, Maj. Gen. Zhang Tianrong, ex-president of the Xi'an Political Academy, as the head of a PLA delegation, visited the Headquarters of the ICRC in Geneva, the International Institute of Humanitarian Law in San Remo, Italy, and the ICRC Regional Delegation for East Asia in Bangkok, Thailand.

At the invitation of the ICRC and the International Institute of Humanitarian Law in San Remo, Italy, we have been sending experts to Italy every year as instructors of workshops on LoAC since 2000; since 1999, every year we have been sending officers and military lawyers to the International Institute of Humanitarian Law in San Remo, Italy to attend military workshops and the courses on the law of war at sea, sponsored by ICRC or at their own expense. In 2002, a team consisting of cadets of the Xi'an Political Academy participated in the *First Knowledge Contest on LoAC* in San Remo, Italy, which was held by the International Institute of Humanitarian Law.

To strengthen the communication and cooperation with the countries of the Asia-Pacific region in the dissemination and promotion of LoAC, in 2002, we sent officers to the Course on *Operational Law for Legal Advisors* held by the Australian Defence Force and the Asia-Pacific Center of Military Law in Sydney, exchanged our experience in disseminating and promoting LoAC with Australian Defence Force and New Zealand Defence Force, and sent two delegations to visit Australia's Asia-Pacific Centre of Military Law.

With my presentation I have briefly introduced PLA's basic dissemination and education of LoAC. But, last and not least, allow me to take this opportunity to express my gratitude to the officials from the headquarters of the ICRC in Geneva, the Regional Delegation for East Asia and the Red Cross Society of China. Thank you all for your great support and cooperation with the PLA in disseminating and spreading LoAC. Here, I would like to extend my special gratitude to Mr. Aleardo Ferretti, who has been cooperating with me in disseminating and spreading LoAC for more than 10 years. What we have achieved in LoAC is closely due to his efforts. We believe that, with the strengthening of the cooperation between the ICRC and the PLA, we will gain greater achievements in disseminating and spreading LoAC.

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