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Narrative Review Article

Ethical Principles for the Treatment of Enemy Combatants on the Battlefield

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Abstract

Introduction: Humanity has always aspired to eliminate conflict and hostility between nations and to replace them with peace, friendship, and peaceful coexistence. Unfortunately, however, war, violence, and the captivity of opposing forces have always existed as historical realities. What has consistently been emphasized is that even war has its own specific ethical considerations. Therefore, the aim of this study is to examine the ethical principles governing the treatment of enemy combatants on the battlefield.

Material and Methods: The research was a review method. In order to achieve the goal of the research, information gathered from scientific journal and books for investigating ethical principles for the treatment of enemy combatants on the battlefield.

Conclusion: The outcome of international efforts to establish protective laws for war prisoners culminated in the four Geneva Conventions, which affirmed the rights of war victims—including prisoners of war, the wounded, civilians, children, women, and the elderly. Among these four conventions, the Third Geneva Convention specifically addresses the rights of prisoners of war. The rights outlined in these conventions include the prohibition of torture and inhumane treatment to extract information, the prohibition of using prisoners as human shields, the obligation to release prisoners when their lives are no longer at risk, the prohibition of collective punishment and public display of prisoners, as well as the right to adequate food and medical care, and respect for the prisoners' human dignity. If implemented, these provisions can eliminate or at least reduce many of the hardships and sufferings of prisoners of war.

Keywords: *Ethics, War, Prisoner, Human rights*

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INTRODUCTION

Since the dawn of human history, there has never been a time without war and bloodshed; this vile and destructive phenomenon has cast its ominous shadow across the entire world. A review of the course of human history reveals the bitter and painful truth that war, conflict, strife, and violence are as old as the existence of social life itself. From the beginning of creation to the present day, the struggle against hostility, violence, and the tendency toward war and conflict has always been a central concern for those seeking to resolve disputes and promote peace, friendship, and reconciliation among individuals and civil societies. This is because the many and frequent wars and conflicts throughout history have been so violent and left such terrifying consequences that they have rightly been described as a scourge—one from which the world and its inhabitants must be protected as much as possible. These consequences include murder, brutal massacres, rape, looting,

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enslavement, and more. Naturally, as long as war was considered inherently legitimate and recourse to it was seen as a fundamental pillar of state sovereignty, the observance of human rights during war and the rights of prisoners of war received little attention. In such a context, the idea that necessity knows no law was accepted as a natural principle in the relations between states and their citizens (1).

Human society has always wished for an end to conflict and hostility between nations and for peace, friendship, and peaceful coexistence to take their place. However, this remains merely a hope and ideal, while war and violence persist as historical realities (2). One constant feature of most wars is the capture of enemy combatants. Captivity as spoils of war has been practiced since ancient times, and the manner of treating prisoners has varied depending on different ideologies and religions. What has consistently been emphasized is that even war has its own specific ethical considerations. For example, prisoners must be treated humanely, cared for, and protected from any violence that might be inflicted upon them (3). The development and implementation of international humanitarian law regulations to protect prisoners of war involves ethical, military, and political considerations.

Ethical considerations toward prisoners of war are grounded in respect for human rights and the necessity of humane treatment during armed conflicts. These considerations manifest in areas such as medical care, the prohibition of torture, and so on.

Military and political considerations also play a significant role in the treatment of prisoners of war. Fundamentally, each prisoner has military value for the opposing side: they can be used as sources of information or as a means of psychological pressure on their comrades who continue to fight. Furthermore, capturing and detaining prisoners can hinder the enemy's military operations.

From the perspective of international humanitarian law, the sole legitimate objective of each party in an armed conflict should be to weaken and eliminate the enemy's forces from the battlefield. Accordingly, a set of principles has been developed to guide and regulate military actions, methods of warfare, and the treatment of individuals and groups captured by the opposing side. The basis for the formation of general principles for protecting victims of armed conflict lies in the fundamental concept that war represents a state of hostility between conflicting states—not hostility between individuals and the citizens of warring nations. Therefore, the goal of war should not be the destruction of the enemy's civilian population, but rather only of its combatants, and only while they are actively engaged in fighting. Today, in light of international humanitarian law, regardless of whether a war is deemed legal or illegal, the sole objective of each party in an armed conflict must be to weaken enemy forces in order to achieve victory. Based on this understanding, various ethical principles have been formulated to guide and control the military operations and conduct of warring parties. Accordingly, the present study aims to examine the ethical principles concerning the treatment of enemy combatants on the battlefield.

MATERIAL AND METHODS

The research was a review method. In order to achieve the goal of the research, information gathered from scientific journal and books for investigating ethical principles for the treatment of enemy combatants on the battlefield.

DISCUSSION

War and Captivity in International Law

In international law, war is a method of coercion involving the use of force and power, and can be

legally defined as follows: war is an instrument of national policy—a series of coercive and armed operations that occur within the framework of relations between states and result in the application of specific rules governing all interactions between the warring parties and with third states. In this context, at least one of the parties to the conflict seeks to impose its political will on the other (4, 5). Thus, armed coercive operations serve both as a means and an end to enforce the aggressor's will (6). International law does not specify the threshold of armed coercion required for a situation to be considered a war. However, in general, war is deemed to have begun when there is effective and actual use of weapons, and it officially ends when hostilities cease through the signing of a peace treaty between the belligerents.

In the Third Geneva Convention, the term "prisoner of war" is not explicitly defined; rather, the Convention merely identifies the individuals who are entitled to the rights established therein (7). Any member of the armed forces of a party to the conflict who has laid down their arms, is incapable of defending themselves, has surrendered, or is otherwise no longer able to fight or protect themselves must not be targeted and is to be considered a prisoner of war. From the moment of capture until their release and repatriation, their life, property, physical and mental health, honor, and dignity must be respected and protected (8). For a more precise understanding of the definition and concept of prisoners of war under international humanitarian law, one must refer to the latest comprehensive international instrument related to the legal regime of armed conflicts. Article 4, paragraph (a) of the 1949 Geneva Convention defines the categories of individuals considered prisoners of war as follows (1):

- Members of the armed forces of a party to the conflict, including members of militias and volunteer corps forming part of such armed forces.
- Members of other militias and volunteer groups, including resistance movements, belonging to a party to the conflict and operating inside or outside its own territory.
- Members of regular armed forces who profess allegiance to a government or authority not recognized by the detaining power.
- Persons who accompany the armed forces without being actual members thereof, such as civilian members of military aircraft crews, war correspondents, supply contractors, and members of labor or service units responsible for the welfare of the armed forces.
- Crews of the merchant marine, including captains and crew members, as well as civil aviation personnel of the opposing states who do not benefit from more favorable treatment under international law.
- Inhabitants of non-occupied territories who spontaneously take up arms upon the approach of the enemy, without having had time to form regular armed units, provided they carry arms openly and respect the laws and customs of war.

The convention does not offer a specific definition of "prisoner of war," but rather identifies those entitled to its protections. Based on this framework, a prisoner of war can be understood as any member of an armed, organized group or unit operating under the command of a leader who is accountable for the behavior of their subordinates and operates under an internal disciplinary system that ensures compliance with the rules of international law in armed conflict. Such individuals are entitled to the legal status and protections afforded to prisoners of war.

Principles of Humane Treatment of Enemy Combatants

The principles of humane treatment play a decisive role in guiding the conduct toward victims of armed conflicts. This principle has been emphasized in similar terms across various international humanitarian law instruments—from The Hague Regulations to the Geneva Conventions. Article 4 of the Annex to the Fourth Hague Convention, governing the laws and customs of war on land, states that prisoners of war are in the hands of the hostile power, not the individuals or military units that have captured them, and it stipulates that they must be treated humanely. Likewise, Article 13 of the Third Geneva Convention affirms that prisoners of war must be treated humanely at all times, and certain acts of inhumane treatment are considered grave breaches of the Convention, carrying international criminal responsibility for the perpetrators. Article 20 of the same Convention stresses that the evacuation of prisoners of war must always be carried out humanely and under conditions comparable to those under which the detaining power transfers its own troops. Humane treatment is a fundamental principle underlying the Third Geneva Convention, and it must always be respected. The Convention must be interpreted and applied in a manner that ensures the welfare of prisoners of war. The Fourth Geneva Convention, in addition to generally mandating humane treatment for protected persons at all times under Article 27, also obliges protection against specific forms of inhumane treatment using language similar to previous sources. Article 37 of the Convention specifically emphasizes the requirement of humane treatment for protected individuals who are either in temporary detention or serving sentences involving deprivation of liberty. The First Additional Protocol to the Geneva Conventions regards the principle of humane treatment as a general norm applicable under all circumstances to protected individuals, as stated in Article 75. The Second Additional Protocol explicitly refers to humane treatment, devoting its entire second section to the issue under the title "Humane Treatment." This section—comprising Articles 4, 5, and 6—constitutes the core of the Protocol. As the only specific instrument concerning the protection of victims of non-international armed conflicts, and as an authoritative interpretation of Common Article 3 of the four Geneva Conventions, Article 4(1) of this Protocol declares: all persons who do not take a direct part or have ceased to take part in hostilities, whether their liberty is restricted or not, are entitled to respect for their person, honor, religious convictions, and practices, and shall in all circumstances be treated humanely without any adverse distinction. Article 5 of the Protocol establishes the minimum standards for persons deprived of liberty for reasons related to the conflict, whether they are detained or imprisoned. Respect for the principle of humane treatment toward civilians and those who have laid down their arms is also required under customary international humanitarian law (Rule 87).

By reflecting on the provisions stated in international humanitarian law documents regarding the principle of humane treatment, and the articles that provide necessary protections for this principle—particularly Articles 20, 23, 25, 46, 52, and 82 of the Third Geneva Convention—it can be concluded that the spirit of this principle is that prisoners of war, in all respects except for the freedom to leave the camp, are to be treated with the same humanity as the armed forces of the detaining power. A similar concept can be inferred from the provisions of the Fourth Geneva Convention and Additional Protocol II, which stipulate that civilian who, in the context of armed conflict, have been deprived of or had their human rights restricted, shall in all cases—except for release from detention—receive the same humane treatment as other civilians. Humane treatment means behavior in

accordance with the norms of human rights law, except in cases where, due to a general state of emergency caused by war, such rights may be subject to suspension.

Ultimately, it can be said that the cornerstone of all legal developments that have led to the establishment of a set of rules governing and improving the conditions of victims of armed conflicts—especially prisoners of war—is the principle of combatant immunity. The core of these rules and regulations is based on the recognition of the principle that violence committed by an enemy combatant is, in fact, public and state violence, and if it results in responsibility, such responsibility is attributed to the state to which the combatant belongs—provided that the combatant has not acted contrary to the laws and customs of war. A soldier participating in war—even if it is an aggressive war or an unjust war in the traditional theory of just war—should never be blamed solely for that reason, as long as he has observed justice in the conduct of warfare. Capturing the enemy is solely for the purpose of preventing further participation in military operations. Therefore, the conditions of prisoners of war must differ from those of convicts and even detainees. This is why the Third Geneva Convention allows for the detention of prisoners of war in prisons only under exceptional circumstances (9, 10).

Accordingly, the recognition of the principle of immunity for captured or surrendered enemy combatants forms the basis for determining prisoner-of-war status and the foundation for the right to benefit from the protections of international humanitarian law. Similarly, this principle of immunity can be extended to civilians who are fighting to exercise their right to self-determination against foreign occupation, colonial domination, or racist regimes—provided their actions do not violate the laws and customs of war.

International Humanitarian Law Provisions for the Protection of Prisoners of War

The formulation and implementation of international humanitarian law provisions for the protection of prisoners of war encompass moral, military, and political elements. Humane treatment of prisoners of war is rooted in the fact that captured combatants no longer pose a threat to the captors or their armed forces. This forms the foundation of humane and ethical conduct towards prisoners in armed conflicts. Therefore, among the responsibilities that the detaining power bears toward prisoners of war, humane treatment is the most important (11). The principles of humane treatment of prisoners of war are emphasized in various international humanitarian law instruments, some of which are mentioned below:

The Right of Prisoners of War to Access Food and Water under International Law: The international legal system affirms the right of prisoners of war to food and water, as the obligation to provide food and clothing to prisoners of war is a longstanding principle of customary international law, acknowledged in the Brussels Declaration and the Oxford Manual. This obligation has been codified in The Hague Regulations and is currently enforceable under the Third Geneva Convention. In the Fourth Geneva Convention, the provisions of this rule are also applicable to civilians who have been deprived of their liberty due to armed conflict (12). According to Article 26 of the Third Convention, the provision of adequate food and drinking water means that, while respecting the dietary habits of prisoners of war, they must not suffer from malnutrition, weight loss, or illness. Starving prisoners of war for any reason or motive is prohibited. If the detaining power is unable to provide food for the prisoners of war, it must either release them or transfer them to a third power (13). Starving prisoners of war as a form of individual or collective punishment is

prohibited under paragraph 6 of Article 26. Moreover, Article 89 of the Third Convention states that disciplinary punishments must not affect prisoners' food rations in a way that endangers their health. Additionally, in order to maintain the health of prisoners of war and meet their other needs, Article 28 of the Convention provides for the establishment of canteens in all places of detention.

The Right to Dignity and Respect of Prisoners: One of the most important rights that must be upheld for prisoners of war is the preservation of their dignity and respect. Paragraph 2 of Article 13 of the Third Geneva Convention explicitly states that the detaining power must prevent any inhumane acts by any party; in particular, prisoners of war must be protected from violence, threats, insults, and public curiosity. Therefore, prisoners of war may not be paraded through the streets or exposed to public view, as this constitutes both an insult and poses a risk of harm or violence against them.

The Right to Perform Religious Duties: One of the factors that affects the mental health of prisoners of war is the freedom to practice their religion. The performance of religious duties is subject only to disciplinary regulations established by commanding officers; however, on the one hand, the regulations of the detaining power cannot render religious observance impossible or completely prohibited, and on the other hand, prisoners of war may not disrupt camp order through their religious practices. This issue is emphasized in Article 34 of the Third Geneva Convention. According to this article, the detaining power must provide suitable places for religious ceremonies. Additionally, Article 35 of the Convention authorizes the activities of chaplains to ensure the prisoners' freedom of worship. Chaplains are allowed to visit prisoners, hold services, and preach to them, and the detaining power must provide the necessary facilities for this purpose (2).

The Right to Correspond with Relatives: Another right of prisoners of war is the right to correspond with their families. According to the Third Geneva Convention, each prisoner of war must have the right to write directly to his family and the Central Prisoners of War Agency within one week of arrival at the camp to inform them of his condition. Under the Convention, a prisoner has the right to send at least two letters and four postcards per month. The detaining power may not prevent or delay such correspondence (13).

The Right to Medical Care and Hygiene in International Law: Under international humanitarian law, the detaining power is obliged to implement necessary sanitary measures. According to Article 15 of the Third Geneva Convention, the detaining power must provide free medical treatment appropriate to the prisoners' health conditions. Article 20 of the Third Geneva Convention further emphasizes the necessity of implementing sanitary measures to ensure the cleanliness and hygiene of detention facilities and to prevent contagious diseases. In fact, the implementation of sanitary measures, ensuring the cleanliness and hygiene of detention areas, and the treatment of prisoners fall under the responsibility of the detaining power, as stipulated in Articles 29 to 32 of the Third Geneva Convention (2).

Ethical Considerations in the Treatment of Prisoners of War

Article 12, paragraph 1 of the Third Geneva Convention states that prisoners of war are not the captives of the detaining unit, but rather of the state to which that unit belongs as part of its armed forces. The detaining power is responsible for the treatment of prisoners of war (14). The idea that prisoners of war are captives of the state relates to the historical shift since the 18th century, when armed conflicts ceased to be seen as battles between individuals and began to be regarded as conflicts between states. In practice,

this principle has a twofold effect: first, it is used to protect prisoners of war and disregards any arbitrary conduct by individual enemy soldiers who capture them. Even if the prisoners had posed a threat to life only moments before capture, the captors are not allowed to treat them as private captives or behave arbitrarily toward them. The principle that prisoners of war are state captives forms the basis of responsibility for their treatment. The detaining power is obligated to require its organs to adhere to the rules of international law in dealing with prisoners of war, and it must ensure the implementation of these rules, regardless of any misconduct by soldiers at the time of capture or during detention. Under international law, the detaining power is responsible for the treatment of prisoners of war. Therefore, according to the principles of international responsibility, the detaining power may be held accountable for the misconduct of its state organs.

- ***Prohibition of Torture and Inhumane Treatment to Extract Information***

Interrogation and questioning of prisoners of war for the purpose of identification is permitted; however, looting of property, the extraction of military information, or the use of torture is prohibited (8). During interrogation, the prisoner of war is only obliged to provide name, surname, date of birth, and personal number. Furthermore, Article 17, paragraph 4 of the Third Geneva Convention stipulates that any physical or mental torture or any other form of coercion to obtain information from prisoners of war is prohibited. Prisoners of war who refuse to respond cannot be threatened, insulted, or treated unfairly or unequally in any manner (14). The interrogation must be conducted in a way that enables the prisoner to answer the questions asked. Therefore, a language must be used during questioning that the prisoner understands. If the prisoner does not speak or understand a language other than their mother tongue, that language must be used. Any form of coercion or compulsion by interrogators to obtain information from prisoners of war is prohibited. Article 17 explicitly prohibits the use of physical or mental torture as coercive measures. Even physical compulsion that does not amount to torture is generally prohibited (15).

- ***Prohibition of Using Prisoners of War as Human Shields***

According to the Rome Statute of the International Criminal Court, employing the presence of a civilian or another protected person to render certain points, areas, or military forces immune from military operations constitutes a war crime in international armed conflicts (Rome Statute of the International Criminal Court, Article 8(2)(b)(xxiii)). In 1990 and 1991, Iraq's use of prisoners of war and civilians as human shields was widely condemned, and the United States declared the act a war crime. The use of prisoners of war as human shields during World War II was addressed in war crimes trials held by the British military court at the Lüneburg Student Court in 1946 and by the United States military tribunal at the High Command Trial in Nuremberg in 1948. In the Karadžić and Mladić case in 1995 before the International Criminal Tribunal for the Former Yugoslavia, the accused were charged with war crimes for using UN peacekeepers as human shields. The court, upon reviewing the indictments, upheld these charges. In its assessment, the court deemed actions such as the physical protection or forced placement of peacekeepers at NATO air strike targets—including ammunition depots, radar stations, and communication centers—against their will as acts of using human shields.

- ***Obligation to Release Prisoners of War in the Absence of Safety Guarantees***

Prisoners of war who, due to exceptional circumstances of war, cannot be held in a certain area must be released. In such cases, all possible precautions must be taken to ensure their safety

(Additional Protocol I, Article 41, paragraph 3). Article 41 of Additional Protocol I introduces significant provisions to the Third Geneva Convention concerning the treatment of prisoners of war. Under the Third Geneva Convention, the obligation to release or repatriate during armed conflict is limited to wounded and sick prisoners and depends on their physical condition. In contrast, Article 41 of Additional Protocol I applies regardless of the physical condition of prisoners of war. If, due to the impossibility of evacuation, ensuring the safety of prisoners of war is not feasible, they must be released. Therefore, Article 41 of Additional Protocol I imposes greater responsibility on the duty of evacuation and care for prisoners of war, as outlined in Article 19 of the Third Geneva Convention.

- ***Prohibition of Collective Punishment***

No person may be convicted of an offense except on the basis of individual criminal responsibility. In any case, the prohibition of collective punishment has broader scope, as it applies not only to criminal sanctions but also to administrative measures and harassment of any kind, whether through administrative or police action or otherwise (16). The prohibition of collective punishment is enshrined in The Hague Regulations and in the Third and Fourth Geneva Conventions (Third Geneva Convention, Article 87, paragraph 3). It is also recognized in Additional Protocols I and II as a fundamental guarantee for all civilians and persons hors de combat (17). The application of collective punishment was regarded as a war crime in the report of the Commission on Responsibility established after World War I. The customary nature of this rule, previously enforced during World War II, was confirmed by the Rome Military Tribunal in the Priebke case in 1997. This prohibition, under which collective punishment is considered a war crime, is also found in the Statute of the International Criminal Tribunal for Rwanda (Article 4(b)) and the Special Court for Sierra Leone.

In the Delalić case, the International Criminal Tribunal for the former Yugoslavia stated that detention or forced residence, as mentioned in Article 78 of the Fourth Geneva Convention, is an exceptional measure that must never be applied collectively. Since collective punishments have been a common practice and have been used by militaries worldwide, the Convention states: "Collective punishments for individual acts, corporal punishment, confinement in premises without daylight, and, in general, all forms of torture and cruelty are prohibited." Furthermore, under Article 87 of the Third Geneva Convention, the detaining power may not deprive any prisoner of war of his rank or prevent him from wearing its insignia (14).

- ***Prohibition of Public Display of Prisoners of War***

Following events during World War II—such as the case known as the Essen lynching—this issue was explicitly addressed in 1949. Therefore, prisoners of war may not be paraded through the streets of a city in a way that exposes them to violent attacks or threats. Such incidents occurred repeatedly during 20th-century conflicts. For example, during World War II, French prisoners of war were publicly displayed in German cities; during the Vietnam War, Allied pilots were displayed in Hanoi; and during the Second Gulf War, captured Allied pilots were paraded in the streets of Baghdad. Today, with the help of modern technology, images of prisoners of war can be transmitted to the entire world almost instantaneously, as occurred in several instances during the Second Gulf War. The broadcasting by Iraqi television of Allied pilots being forced to speak against their countries, as well as the airing of interviews with Iraqi prisoners of war immediately after their capture, rightly constitutes a violation of Article 13 of the Third Geneva Convention (429) (18).

The Iraqis also subjected Iranian prisoners to public exposure for hours in open vehicles under the scorching sun through the streets of cities along the route (19).

CONCLUSION

A study of history reveals that war, violence, and bloodshed are unavoidable realities of human life. The efforts of peace advocates to confront this destructive phenomenon, which threatens human life and dignity, have not been successful in practice and have failed to eliminate war. The history of human life is interwoven with conflict and bloodshed, and some victims of these conflicts fall into the hands of the opposing side and become known as prisoners. Prisoners of war, held by the dominant and victorious party, are expected to endure a harsh life. Therefore, the question arises: how should such an individual protect their existence, life, and health while in enemy hands? A prisoner caught by the enemy is completely under the control of the detaining power and can be presumed to be heavily dependent on their enemy even for their most basic needs. Such circumstances bring numerous difficulties into the individual's life.

The experiences of the world wars and other scattered conflicts around the globe prompted human rights and humanitarian law activists to seek ways to reduce the pain, suffering, and anguish of war victims and, as much as possible, to establish rights for prisoners of war under the principles and rules of humanitarian law. The outcome of these efforts was reflected in the four Geneva Conventions, through which the rights of war victims—including prisoners of war, the wounded, civilians, children, women, and the elderly—were recognized. Of the four Geneva Conventions, the Third Convention specifically addresses the rights of prisoners of war. The rights set out in these conventions include the prohibition of torture and inhumane treatment for the purpose of obtaining information, the prohibition of using prisoners of war as human shields, the obligation to release prisoners of war when their safety cannot be guaranteed, the prohibition of collective punishment, the prohibition of public display of prisoners of war, the right to adequate food and medical treatment, and the obligation to respect the human dignity of prisoners. If implemented, these rights can eliminate or at least alleviate many of the hardships and sufferings endured by prisoners of war.

ETHICAL CONSIDERATIONS

Ethical issues (such as plagiarism, conscious satisfaction, misleading, making and or forging data, publishing or sending to two places, redundancy and etc.) have been fully considered by the writers.

CONFLICT OF INTEREST

The authors declare that there is no conflict of interests.

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