

International Law Studies—Volume 47

INTERNATIONAL LAW DOCUMENTS

1950-1951

U.S. Naval War College (Editor)

The thoughts and opinions expressed are those of the authors and not necessarily of the U.S.

Government, the U.S. Department of the Navy or the Naval War College.

III. HAGUE CONVENTION (II) WITH RESPECT TO THE LAWS AND CUSTOMS OF WAR ON LAND, 29 JULY 1899.

NOTE. This Convention was opened for signature by the First Hague Peace Conference, which had as one of its objectives the revision of the Brussels Declaration of 1874 concerning the laws and customs of war. Twenty-five States, including the United States, were represented at the Conference.

The Convention was ratified or adhered to by some forty-six States, including the United States. This Convention was replaced by Hague Convention IV of 18 October 1907, and was supplemented by the Geneva Convention relative to the Treatment of Prisoners of War of 27 July 1929, as between the parties to those instruments.

[Translation from 2 *Treaties* (Malloy), p. 2042.]

ARTICLE I. The High Contracting Parties shall issue instructions to their armed land forces, which shall be in conformity with the "Regulations respecting the Laws and Customs of War on Land" annexed to the present Convention.

ARTICLE II. The provisions contained in the Regulations mentioned in Article I are only binding on the Contracting Powers, in case of war between two or more of them.

These provisions shall cease to be binding from the time when, in a war between Contracting Powers, a non-Contracting Power joins one of the belligerents.

ARTICLES III-IV. [Omitted.]

ANNEX TO THE CONVENTION. REGULATIONS RESPECTING THE LAWS AND CUSTOMS OF WAR ON LAND.

SECTION I. ON BELLIGERENTS.

CHAPTER I. ON THE QUALIFICATIONS OF BELLIGERENTS.

ARTICLES I-III. [Omitted.]

CHAPTER II. ON PRISONERS OF WAR.

Prisoners of war are in the power of the hostile Government, but not in that of the individuals or corps who captured them.

They must be humanely treated.

All their personal belongings, except arms, horses, and military papers remain their property.

ARTICLE V. Prisoners of war may be interned in a town, fortress, camp, or any other locality, and bound not to go be-

yond certain fixed limits; but they can only be confined as an indispensable measure of safety.

ARTICLE VI. The State may utilize the labor of prisoners of war according to their rank and aptitude. Their tasks shall not be excessive, and shall have nothing to do with the military operations.

Prisoners may be authorized to work for the Public Service, for private persons, or on their own account.

Work done for the State shall be paid for according to the tariffs in force for soldiers of the national army employed on similar tasks.

When the work is for other branches of the Public Service or for private persons, the conditions shall be settled in agreement with the military authorities.

The wages of the prisoners shall go towards improving their position, and the balance shall be paid them at the time of their release, after deducting the cost of their maintenance.

ARTICLE VII. The Government into whose hands prisoners of war have fallen is bound to maintain them.

Failing a special agreement between the belligerents, prisoners of war shall be treated as regards food, quarters, and clothing, on the same footing as the troops of the Government which has captured them.

ARTICLE VIII. Prisoners of war shall be subject to the laws, regulations, and orders in force in the army of the State into whose hands they have fallen.

Any act of insubordination warrants the adoption, as regards them, of such measures of severity as may be necessary.

Escaped prisoners, recaptured before they have succeeded in rejoining their army, or before quitting the territory occupied by the army that captured them, are liable to disciplinary punishment.

Prisoners who, after succeeding in escaping are again taken prisoners, are not liable to any punishment for the previous flight.

ARTICLE IX. Every prisoner of war, if questioned, is bound to declare his true name and rank, and if he disregards this rule, he is liable to a curtailment of the advantages accorded to the prisoners of war of his class.

ARTICLE X. Prisoners of war may be set at liberty on parole if the laws of their country authorize it, and, in such a case, they are bound, on their personal honour, scrupulously to fulfill, both as regards their own Government and the Government by

whom they were made prisoners, the engagements they have contracted.

In such cases, their own Government shall not require of nor accept from them any service incompatible with the parole given.

ARTICLE XI. A prisoner of war can not be forced to accept his liberty on parole; similarly the hostile Government is not obliged to assent to the prisoner's request to be set at liberty on parole.

ARTICLE XII. Any prisoner of war, who is liberated on parole and recaptured, bearing arms against the Government to whom he had pledged his honor, or against the allies of that Government, forfeits his right to be treated as a prisoner of war, and can be brought before the Courts.

ARTICLE XIII. Individuals who follow an army without directly belonging to it, such as newspaper correspondents and reporters, sutlers, contractors, who fall into the enemy's hands, and whom the latter think fit to detain, have a right to be treated as prisoners of war, provided they can produce a certificate from the military authorities of the army they were accompanying.

ARTICLE XIV. A Bureau for information relative to prisoners of war is instituted, on the commencement of hostilities, in each of the belligerent States, and, when necessary, in the neutral countries on whose territory belligerents have been received. This Bureau is intended to answer all inquiries about prisoners of war, and is furnished by the various services concerned with all the necessary information to enable it to keep an individual return for each prisoner of war. It is kept informed of internments and changes, as well as of admissions into hospital and deaths.

It is also the duty of the Information Bureau to receive and collect all objects of personal use, valuables, letters, &c., found on the battlefields or left by prisoners who have died in hospital or ambulance, and to transmit them to those interested.

ARTICLE XV. Relief Societies for prisoners of war, which are regularly constituted in accordance with the law of the country with the object of serving as the intermediary for charity, shall receive from the belligerents for themselves and their duly accredited agents every facility, within the bounds of military requirements and Administrative Regulations, for the effective accomplishment of their humane task. Delegates of these Societies may be admitted to the places of internment for the

distribution of relief, as also to the halting places of repatriated prisoners, if furnished with a personal permit by the military authorities, and on giving an engagement in writing to comply with all their Regulations for order and police.

ARTICLE XVI. The Information Bureau shall have the privilege of free postage. Letters, money orders, and valuables, as well as postal parcels destined for the prisoners of war or dispatched by them, shall be free of all postal duties both in the countries of origin and destination, as well as in those they pass through.

Gifts and relief in kind for prisoners of war shall be admitted free of all duties of entry and others, as well as of payments for carriage by the Government railways.

ARTICLE XVII. Officers taken prisoners may receive, if necessary, the full pay allowed them in this position by their country's regulations, the amount to be repaid by their Government.

ARTICLE XVIII. Prisoners of war shall enjoy every latitude in the exercise of their religion, including attendance at their own church services, provided only they comply with the regulations for order and police issued by the military authorities.

ARTICLE XIX. The wills of prisoners of war are received or drawn up on the same conditions as for soldiers of the National Army.

The same rules shall be observed regarding death certificates, as well as for the burial of prisoners of war, due regard being paid to their grade and rank.

ARTICLE XX. After the conclusion of peace, the repatriation of prisoners of war shall take place as speedily as possible.

CHAPTER III. ON THE SICK AND WOUNDED.

ARTICLE XXI. The obligations of belligerents with regard to the sick and wounded are governed by the Geneva Convention of the 22nd August, 1864, subject to any modifications which may be introduced into it.

SECTION II. ON HOSTILITIES.

CHAPTER I. ON MEANS OF INJURING THE ENEMY, SIEGES, AND BOMBARDMENTS.

ARTICLE XXII. The right of belligerents to adopt means of injuring the enemy is not unlimited.

ARTICLE XXIII. Besides the prohibitions provided by special Conventions, it is especially prohibited:—

- (a.) To employ poison or poisoned arms;
- (b.) To kill or wound treacherously individuals belonging to the hostile nation or army;
- (c.) To kill or wound an enemy who, having laid down arms, or having no longer means of defence, has surrendered at discretion;
- (d.) To declare that no quarter will be given;
- (e.) To employ arms, projectiles, or material of a nature to cause superfluous injury;
- (f.) To make improper use of a flag of truce, the national flag, or military ensigns and the enemy's uniform, as well as the distinctive badges of the Geneva Convention;
- (g.) To destroy or seize the enemy's property, unless such destruction or seizure be imperatively demanded by the necessities of war.

ARTICLE XXIV. Ruses of war and the employment of methods necessary to obtain information about the enemy and the country, are considered allowable.

ARTICLE XXV. The attack or bombardment of towns, villages, habitations or buildings which are not defended, is prohibited.

ARTICLE XXVI. The Commander of an attacking force, before commencing a bombardment, except in the case of an assault, should do all he can to warn the authorities.

ARTICLE XXVII. In sieges and bombardments all necessary steps should be taken to spare as far as possible edifices devoted to religion, art, science, and charity, hospitals, and places where the sick and wounded are collected, provided they are not used at the same time for military purposes.

The besieged should indicate these buildings or places by some particular and visible signs, which should previously be notified to the assailants.

ARTICLE XXVIII. The pillage of a town or place, even when taken by assault, is prohibited.

CHAPTER II. ON SPIES.

ARTICLES XXIX—XXXI. [Omitted.]

CHAPTER III. ON FLAGS OF TRUCE.

ARTICLES XXXII—XXXIV. [Omitted.]

CHAPTER IV. ON CAPITULATIONS.

ARTICLE XXXV. [Omitted.]

CHAPTER V. ON ARMISTICES.

ARTICLES XXXVI–XLI. [Omitted.]

SECTION III. ON MILITARY AUTHORITY OVER
HOSTILE TERRITORY.

ARTICLE XLII. Territory is considered occupied when it is actually placed under the authority of the hostile army.

The occupation applies only to the territory where such authority is established, and in a position to assert itself.

ARTICLE XLIII. The authority of the legitimate power having actually passed into the hands of the occupant, the latter shall take all steps in his power to re-establish and insure, as far as possible, public order and safety, while respecting, unless absolutely prevented, the laws in force in the country.

ARTICLE XLIV. Any compulsion of the population of occupied territory to take part in military operations against its own country is prohibited.

ARTICLE XLV. Any pressure on the population of occupied territory to take the oath to the hostile Power is prohibited.

ARTICLE XLVI. Family honours and rights, individual lives and private property, as well as religious convictions and liberty, must be respected.

Private property cannot be confiscated.

ARTICLE XLVII. Pillage is formally prohibited.

ARTICLE XLVIII. If, in the territory occupied, the occupant collects the taxes, dues, and tolls imposed for the benefit of the State, he shall do it, as far as possible, in accordance with the rules in existence and the assessment in force, and will in consequence be bound to defray the expenses of the administration of the occupied territory on the same scale as that by which the legitimate Government was bound.

ARTICLE XLIX. If, besides the taxes mentioned in the preceding Article, the occupant levies other money taxes in the occupied territory, this can only be for military necessities or the administration of such territory.

ARTICLE L. No general penalty, pecuniary or otherwise, can be inflicted on the population on account of the acts of individuals for which it cannot be regarded as collectively responsible.

ARTICLE LI. No tax shall be collected except under a written order and on the responsibility of a Commander-in-Chief.

This collection shall only take place, as far as possible, in accordance with the rules in existence and the assessment of taxes in force.

For every payment a receipt shall be given to the taxpayer.

ARTICLE LII. Neither requisition in kind nor services can be demanded from communes or inhabitants except for the necessities of the army of occupation. They must be in proportion to the resources of the country, and of such a nature as not to involve the population in the obligation of taking part in military operations against their country.

These requisitions and services shall only be demanded on the authority of the Commander in the locality occupied.

The contributions in kind shall, as far as possible, be paid for in ready money; if not, their receipt shall be acknowledged.

ARTICLE LIII. An army of occupation can only take possession of the cash, funds, and property liable to requisition belonging strictly to the State, depôts of arms, means of transport, stores and supplies, and, generally, all movable property of the State which may be used for military operations.

Railway plant, land telegraphs, telephones, steamers, and other ships, apart from cases governed by maritime law, as well as depôts of arms and, generally, all kinds of war material, even though belonging to Companies or to private persons, are likewise material which may serve for military operations, but they must be restored at the conclusion of peace, and indemnities paid for them.

ARTICLE LIV. The plant of railways coming from neutral States, whether the property of those States, or of Companies, or of private persons, shall be sent back to them as soon as possible.

ARTICLE LV. The occupying State shall only be regarded as administrator and usufructuary of the public buildings, real property, forests, and agricultural works belonging to the hostile State, and situated in the occupied country. It must protect the capital of these properties, and administer it according to the rules of usufruct.

ARTICLE LVI. The property of the communes, that of religious, charitable, and educational institutions, and those of arts and science, even when State property, shall be treated as private property.

All seizure of, and destruction, or intentional damage done to

such institutions, to historical monuments, works of arts or science, is prohibited, and should be made the subject of proceedings.

SECTION IV. ON THE INTERNMENT OF BELLIGERENTS
AND THE CARE OF THE WOUNDED IN NEUTRAL
COUNTRIES.¹

ARTICLE LVII. A neutral State which receives in its territory troops belonging to the belligerent armies shall intern them, as far as possible, at a distance from the theatre of war.

It can keep them in camps, and even confine them in fortresses or locations assigned for this purpose.

It shall decide whether officers may be left at liberty on giving their parole that they will not leave the neutral territory without authorization.

ARTICLE LVIII. Failing a special Convention, the neutral State shall supply the interned with the food, clothing, and relief required by humanity.

At the conclusion of peace, the expenses caused by the internment shall be made good.

ARTICLE LIX. A neutral State may authorize the passage through its territory of wounded or sick belonging to the belligerent armies, on condition that the trains bringing them shall carry neither combatants nor war material. In such a case, the neutral State is bound to adopt such measures of safety and control as may be necessary for the purpose.

Wounded and sick brought under these conditions into neutral territory by one of the belligerents, and belonging to the hostile party, must be guarded by the neutral State, so as to insure their not taking part again in the military operations. The same duty shall devolve on the neutral State with regard to wounded or sick of the other army who may be committed to its care.

ARTICLE LX. The Geneva Convention applies to sick and wounded interned in neutral territory.

¹Articles 11-12 and 14-15, Hague Convention V, respecting the Rights and Duties of Neutral Powers and Persons in Case of War on Land, of 18 October 1907 (36 Stat. 2310; 2 *Treaties* (Malloy), p. 2290; Naval War College, *International Law Situations, 1908*, p. 188), which was ratified or adhered to by some twenty-nine States, including the United States.