

## THE HISTORICAL PERSPECTIVE

### INTRODUCTION

Fighting men declare it is neither dishonorable nor heroic to be taken prisoner. In the sense that the victim does not covet it, but finds himself unable to avoid it, capture is an accident. Often, like a motor crash, it comes as a complete surprise. Often, too, it is accompanied by injury. Nearly always the upshot is painful and in the end it may prove fatal. And as is the case with many accidents, it is "bad luck."

Fighting men speak of "the fortunes of war." In combat, luck cannot smile on all participants. Some are bound to lose. The man taken captive is one of the unlucky--a Soldier of Misfortune. That can be one definition for war-prisoner.<sup>1</sup>

The question of luck and the absence of self-determination are themes that appear continually in the literature on the prisoner of war experience. Conditions and treatment have varied throughout history and are affected by such disparate factors as: mankind's varying concept of the value of life; the economic and logistical capacities of captors; the consideration of reprisal as a "legitimate" activity; adherence to or rejection of international covenants on the rights of human beings; climate and geography; and the whim of individual captors.

The nature of capture and internment can vary within any period of war, within a particular theater of operations, from camp to camp, and even, for the individual POW, from guard to guard. "Everything depends on the individual and the circumstances involved."<sup>2</sup> This brief quotation, from the report of the Secretary of Defense's Advisory Committee on Prisoners of War, 1955, emphasizes the variability of effect and aftereffect on individual American military personnel who have been captured and interned as POWs.

Americans as prisoners of war have faced many tribulations in this century. Some were more unlucky than others. While this study is concerned primarily with the aftereffects of imprisonment, it is also important to iterate some of the elements of the POW experience. Prisoners of war face a sense of loss: loss of self-determination, loss of hope, loss of knowledge of home and the chances for repatriation. Many POWs have lived for months and years with a crushing sense of doom, seeing themselves and their comrades dying from myriad diseases, starvation, exposure, misguided bombardments, lack of medical care, and murder by firearm, bludgeon, bayonet and the beheading sword. They have faced forced marches on bare subsistence rations or none at all, while exposed to intense cold or heat, often brutalized along the way, prodded by bayonet or attack dogs, and left to die if too injured or weakened to keep up. They have been victims of war crimes such as torture and mutilation, beatings, and forced heavy labor under inhumane conditions. Many prisoners who were severely injured by combat prior to capture had little hope of any but the most meager medical attention, at times none at all.

Prisoners of war have lived for protracted periods under severe emotional stress, many expecting to be killed at war's end or following a turn of events in the captor's war effort. They have been targets for intense interrogation techniques and political indoctrination. Often, they faced the most severe privations because the capturing force simply had not been prepared for the maintenance of large numbers of captives or had but the barest rations for its own men. POWs have also been victims of or witnesses to murderous wholesale reprisals, sometimes initiated ostensibly as "militarily necessary."<sup>3</sup> In other cases, more often classified as battle casualties, no captives were "taken prisoner," but were killed shortly after capture.

## EARLY PRISONERS OF WAR

### The Ancients

Prisoners of war have always had a miserable time. Primitive man and his barbarian descendants annihilated all his captured foes. Occasionally a captured headman or leader was held as a hostage. But the vanquished of the ancient world usually faced extermination . . . . In an era when it was hard enough for a man to keep himself at subsistence level, captors were apt to think of captives merely as extra mouths to be fed--and therefore better dead than alive.

The Greeks, who acknowledged the highest human dignity only in their own race, executed those prisoners who were of no use to them or whose death would serve as a warning to other belligerents, and sold the rest into slavery. The Romans used their captives for target practice or as gladiators, and tortured others for public amusement. Captured warriors rowed Caesar's galleys to North Africa and Britain and were killed when they could no longer pull an oar. Gradually, however, the practice of using POWs as slave labor took precedence over extermination, and the economic self interest of the captors led to an improvement in the position of the wretched captives.

### The Middle Ages

The Middle Ages included the rise of the code of chivalry, in which mercy was shown to a courageous opponent and his life spared. Ransom of prisoners also took place. These conditions were often mitigated, however, by the concurrent rise of religious intolerance and fanaticism, which generated pogroms, religious wars and atrocities. Moreover, "War was monopolized by one class, the nobility, who, with the professional soldier or knight, governed battle by a complex code of behavior that excluded all but warriors of this elite body. Thus, the foot troops were shown no mercy and, expecting no mercy from their conquerors, whose humanity was based on ransom, were naturally ruthless."<sup>6</sup> The total destruction of a foe was practiced for the next several centuries and there were few exceptions to the process of massacre and complete suppression of a city or region.

## 17th Century

Dutch jurist and humanist, Huit De Groot Grotius, who had himself been imprisoned, attempted to devise rules for warring nations. He presented the view that wars were to be fought for "just" causes only and he drafted laws to "humanize" warfare for the mutual advantage of the belligerents. His attempt did not meet with success, but this type of thinking had an influence on later philosophers and humanists.

## 18th Century Enlightenment

Charles De Montesquieu, Jean Jacques Rousseau and Emmerich De Vattel helped to develop modern thinking on the treatment of prisoners of war. In their view, captors essentially had no right over prisoners except to keep them out of the fight, and war was a relationship between states, meaning that individual soldiers were enemies only so long as they were armed. "As the ideas of humanitarianism began to exert their influence, a corresponding modification of existing practices in regard to prisoners took place. As war became more humane, men and nations were prepared to accept more idealistic rules governing the treatment of the PW!"<sup>7</sup>

## The American Revolution

In addition to the usual tribulations of prisoners of war, captured Americans were considered to be revolutionaries and freedom fighters, thus without status as prisoners of war--classified as criminals. They were subject to hanging if captured on land and treated as pirates if captured at sea. Americans taken captive by the British were treated more severely than French prisoners captured during the Napoleonic wars. Ethan Allen wrote of the conditions he witnessed in New York, where many captured Americans died from starvation and exposure to cold while languishing in unspeakably unsanitary conditions. Appeal to the Crown was futile since the Americans were seen as rebels, criminals totally without recognition as POWs.<sup>8</sup>

## The Civil War

Conditions in Federal and Confederate internment sites during the Civil War were so bad that public outcry and political pressure combined to generate Presidential action that resulted in the "Lieber Code" discussed below (1863). Prisoners, largely in consequence of overcrowding, lack of sanitation, malnutrition, and disease, had diminished chances of surviving the internment experience.

Civil War prison camps were harsh. In Southern camps, particularly Andersonville and Florence, men suffered greatly from malnutrition and lack of medication. The union prison on Johnson's Island in Lake Erie was a bleak Alcatraz, and Union stockades at Point Lookout on the Potomac were described as 'hell holes.'

## World War I

World War I saw the advent of scientific intelligence warfare, psychological warfare, propaganda warfare, and political warfare. It was the first "total" war, and gentlemanly conduct and humanitarian concerns were secondary to the war effort. In general, Americans taken prisoner were more fortunate than the military POWs of the other Allied nations. Americans were late entrants into the war and, probably more importantly, ". . . the Kaiser's military leaders foresaw the results of America's entry into the conflict. With the handwriting on the wall it was only expedient to treat captured Doughboys with lenience."<sup>10</sup>

### DEVELOPMENT OF AN INTERNATIONAL CODE

#### 1863

As the number of prisoners grew during the American Civil War, there was increasing political pressure for exchange and more lenient treatment of prisoners. In 1863, President Lincoln called upon Professor Francis Lieber of Columbia College to develop a set of uniform rules for treatment of prisoners of war. Issued on April 24, 1863, as U.S. War Department General Order 100, "Instructions for the Government of Armies of the United States in the Field," the "Lieber Code" was the first uniform code on treatment of POWs and was a milestone in the history of war.<sup>11</sup> This code was observed to the extent possible, affected by economic, military and logistical circumstances as well as by each belligerent's degree of commitment. The Lieber Code included the following rules:

No belligerent has the right to declare that he will treat every captured man in arms . . . . as a brigand or a bandit.

A prisoner of war is subject to no punishment for being a public enemy, nor is any revenge wreaked upon him by the intentional infliction of any suffering, or disgrace, by cruel imprisonment, want of food, by mutilation, death, or any other barbarity.

A prisoner of war remains answerable for his crimes committed before the captor's army or people, (for crimes) committed before he was captured, and for which he has not been punished by his own authorities.

A prisoner of war . . . . is the prisoner of the government and not of the captor.

Prisoners of war are subject to confinement or imprisonment such as may be deemed necessary on account of safety, but they are to be subjected to no other intentional suffering or indignity.

A prisoner of war who escapes may be shot, or otherwise killed in flight; but neither death nor any other punishment shall be inflicted on him for his attempt to escape, which the law of order does not consider a crime. Stricter means of security shall be used after an unsuccessful attempt of escape.

Every captured wounded man shall be medically treated according to the ability of the medical staff.

#### 1864

The first Geneva Convention was held in 1864, for relief of wounded combatants, and marked the founding of the International Red Cross. The Convention for the Amelioration of the Wounded in Time of War provided for: immunity from capture and destruction of establishments for the sick and wounded and their personnel; impartial reception and treatment of combatants; protection of civilians giving aid to the wounded; and recognition of the Red Cross as a means of identifying persons and equipment covered by the agreement.

#### 1874

In 1874, a conference was held in Brussels at the instigation of the Russian government. The Brussels conference considered a code based on Lieber's (1863). The code was not ratified, but it influenced the activities of the first Hague conference.

#### 1899, 1907, 1914

In 1899, the first Hague conference, attended by 26 nations including the United States, considered disarmament proposals, a world court and the "Brussels Code" of 1874. Broadened in scope to consider other aspects of warfare, 24 nations ratified the 1899 document, which included declarations prohibiting the use of asphyxiating gases and expanding "dum dum" bullets, and discharging projectiles or explosives from balloons. Primarily "peace conferences" focusing on disarmament and arms limitation, the Hague conferences of 1899, 1907, and 1914 were hailed for establishing the concept of compulsory arbitration in time of war and the concept of continuing international conferences on the rights and duties of belligerents and neutrals. These were seen as major achievements even though the original goals on universal disarmament were not realized. Basically, prisoners of war were to be treated more humanely, in a manner similar to treatment accorded the troops of the detaining power.

#### 1929

The Geneva Convention of 1929 had as its intention the development of a treaty which would expand upon and supersede the conventions, to make international law binding between individual states. The Convention Relating to the Treatment of Prisoners of War provided that belligerents must treat prisoners humanely, supply information about them, and permit visits to prison camps by representatives of neutral states. Forty-six nations were represented at this convention and 33 nations signed its provisions. By the time of World War II:

Russia had not signed and Japan had not ratified. Although Japan announced her intention to observe the Geneva Conventions, she reserved the right to make changes. . .the Germans flatly denied that the 1929 conventions applied to the Russians, and the subsequent German treatment of Russian PWs bore this out . . . . It is estimated that of the five million Soviet prisoners taken by Germany in World War II, barely one million survived.<sup>12</sup>

1949

Due to abuses and disregard for the basic principles of the Conventions of 1929 by some of the belligerents during World War II, it was necessary to restate and reaffirm the Geneva Convention of 1929. In Geneva in 1949, the provisions were extended through four Conventions:

- (1) Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field;
- (2) Convention for the Amelioration of the Condition of the Wounded, Sick and Shipwrecked Members of Armed Forces at Sea;
- (3) Convention Relative to the Treatment of Prisoners of War;
- (4) Convention for the Protection of Civilian Persons in Time of War.

The following were forbidden: deportation of individuals or groups regardless of motive; the taking of hostages; outrages upon personal dignity; torture; collective punishment and reprisals; the unjustified destruction of property; and discrimination in treatment on the basis of race, religion, nationality or political grounds. The Convention Relative to the Treatment of Prisoners of War also required humane treatment, adequate feeding and delivery of relief supplies, and forbade pressure to supply more than minimum information.

The Convention of 1949 is first and foremost a code of legal rules, both fundamental and detailed, for the protection of prisoners of war throughout the period of their captivity. Secondly, these rules are based upon and are designed to prevent a recurrence of the appalling experience of the recent war. Thirdly, the guiding principle underlying all the articles is that humane and decent treatment is a right and not a favor conferred on men and women of the armed forces who have been captured in the tide of war. Fourthly, there is clear recognition that prisoners of war are the victims of events and are not criminals. Fifthly, there is the acceptance that prisoners of war owe no allegiance to the Detaining Power. Sixthly, there is the detailed application of the general principle that both the legal status and the ensuing rights of prisoners of war shall be assimilated as closely as possible to those of the members of the Armed Forces of the Detaining Power. Seventhly, provision has been made for a comprehensive role to be played by the Protecting Power, the ICRC,<sup>13</sup> and other relief organizations. The result is a formidable legal body of rules, both realistic and humane. The legal rules<sup>14</sup> so established by the Convention now form part of the international law of war.

Fifty-seven nations signed the provisions of the Geneva Convention of 1949. A number of the significant articles and the obligations of detaining powers are described briefly below:<sup>15</sup>

- Article 13 - POWs must be treated humanely and protected, reprisals against POWs are prohibited;
- Article 21 - POWs are not to be held in close confinement;
- Article 23 - POW camps are to be marked so as to be visible from the air, and information is to be given on camp locations;
- Article 26 - Sufficient food is to be provided, loss of weight is to be prevented, and account is to be taken of the normal diet;
- Article 30 - Adequate medical care is to be provided;
- Article 34 - Regular religious services are to be permitted;
- Article 71 - POWs shall be allowed to send and receive letters and cards, not less than two letters and cards monthly;
- Article 72 - POWs shall be allowed to receive parcels or collective shipments; the shipments are not to relieve the Detaining Power from obligations under the Convention;
- Article 109 - Seriously sick and wounded are to be repatriated immediately, and those POWs long in captivity are to be released;
- Article 120 - Full information is to be provided on deaths in captivity, including circumstances, cause, burial and grave identification;
- Article 122 - The names of all POWs held are to be provided promptly;
- Article 126 - Neutral inspection of all camps is to be allowed, including interviews of POWs without witnesses.

#### FOOTNOTES

<sup>1</sup> U.S. Department of Defense, POW, The Fight Continues After the Battle, The Report of the Secretary of Defense's Advisory Committee on Prisoners of War, Washington, D.C., August 1955, p. 1, hereafter referred to as "DOD, POW."

<sup>2</sup> Ibid., p. 1.

<sup>3</sup> A.J. Barker, Behind Barbed Wire, (London: B. T. Batsford Ltd, 1974), Chapter 6.

<sup>4</sup> Ibid., p. 5.

<sup>5</sup> Ibid., p. 6.

<sup>6</sup> E. Mowery, D. Hutchings, and B. Rowland, "The Historical Management of POWs: A Synopsis of the 1963 U.S. Army Provost Marshal General's Study Entitled 'A Review of the United States Policy on Treatment of Prisoners of War,'" paper, Naval Health Research Center, San Diego, p. 2, original study completed in 1968.

<sup>7</sup> Ibid., p. 4.

<sup>8</sup> Barker, p. 11.

<sup>9</sup> DOD, POW, p. 51.

<sup>10</sup> Ibid., p. 51.

<sup>11</sup> E. Mowery, et al., p. 6.

<sup>12</sup> Ibid., pp. 9-10.

<sup>13</sup> International Committee of the Red Cross.

<sup>14</sup> Draper, G. I. A. D., The Red Cross Conventions, (New York, Frederick A. Praeger, Inc., 1958), pp. 50-51.

<sup>15</sup> These articles were cited in reference to the treatment received by American POWs in Southeast Asia during the Vietnam Era in, U.S. Congress, Senate, Committee on the Judiciary, Communist Treatment of Prisoners of War: A Historical Survey, prepared for a subcommittee, Senate Committee on the Judiciary, 92d Congress, 2d session, 1972, p. 22.