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The International Legal Framework Regarding the Romanian Prisoners of War from the Eastern Front in the Second World War

Stefan Gheorghe¹

Abstract: The international legal framework regarding prisoners of war, for the first half of the century. XX, had been regulated by the “Regulation concerning the Laws and Customs of War on Land”, annexed document to the Fourth Hague Convention of 1907, and the Geneva Convention concerning the Treatment of Prisoners of War of July 27, 1929. The status of prisoners of war The war will be regulated in the content of 97 articles which provided legal obligations for the state that had them in custody regarding the foreign soldiers as well as the rights that the latter had. During the Second World War, the two documents related to international law had a different applicability for the states of the world.

Keywords: war; legitimate means; revolution

Starting from this aspect, international law is no exception to these rules with the mention that its course and evolution was, in general, much more laborious given that the participants in this process, namely the states of the world from antiquity to the contemporary period, often had conflicting interests due to different levels of economic, social, cultural and political development. Their military power was most often the determining factor in imposing new rules of international law that only benefited one of the involved parties. War has always represented a legitimate means by which international law was imposed, being considered for a long time in history, a “natural right of states”, jus ad bellum through which the evolution of humanity is ensured and which, from the point of view of law, enshrines the imposition a domination over various regions or peoples in history.

¹ Associate Professor, PhD, Danubius University of Galati, Romania, Address: 3 Galati Blvd., 800654, Galati, Romania, Corresponding author: stefangheorghe@univ-danubius.ro.

Regarding international humanitarian law, it appeared with the intensification and increase in the number of wars between the states of the world as a means of resolving disputes in international relations, with the stated aim of ensuring a minimum protection of the population in a conflict zone, being both for all belligerent parties in conflict. Regarding the observance of humanitarian obligations and norms in war, these were of a customary nature and did not constitute an express provision in international agreements and treaties. The conquest of territories in war therefore represented a right, justified and strengthened most of the times by the appeal to divinity.

As we previously predicted, although the concerns in the direction of protecting the civilian population, refugees and prisoners captured in battles, have existed since ancient times, we can talk about the emergence of an international law, agreed by the majority of the member states of the international community, which protect starting with the 20th century, after the First World War, especially. The founding of the League of Nations and the involvement of the International Committee of the Red Cross brought to the forefront of international public opinion the necessary help needed by the civilian population in the conflict zones (Kissinger, 2003, pp. 188-212). Humanitarian reasons were the last ones that were the basis of protecting those persecuted during the war, previously, the practice of protecting refugees, prisoners of war and the civilian population in the captured territory belonged to the political power that had taken them over. The ecclesiastical, Christian component should not be neglected either, especially for the European space, where the church had a strong tradition of protecting all people in difficulty.

Until the implementation of the main international conventions and agreements, from the beginning of the 20th century, and which substantiated the international protection of the civilian population in case of war, of refugees and prisoners of war, international law considered the involvement of another state, or the international community, unacceptable in the way sovereign states treated their own citizens or foreigners, whether they were displaced, prisoners or part of the civilian population in a conquered territory. In the rare cases when it proved that the interests of the foreign population could not be protected, the country of origin could intervene by granting diplomatic and consular protection, and the non-respect of the rights of these minorities could frequently constitute a cause of *casus belli*¹. Most of the time,

¹ See the case of the Southerners from the Romanian Countries in the 19th century, the people who were under the protection of third countries, Austria, Russia, etc., who were in permanent dispute with

the state of origin could not do this, so the protection of refugees, the civilian population and prisoners of war will be a recurring theme in international law (Goodwin-Gill, 2021, pp. 130-146), human rights and states with democratic political systems. At the beginning of the first world war, numerous national Red Cross societies were already operating in the world, over 45, spread from Europe and Asia to Africa and the two Americas. Although the belligerent and neutral states were mostly signatories of conventions and agreements aimed at regulating the status of prisoners of war or the civilian population in conflict zones, the conduct of military operations in the field demonstrated the existence of serious impediments in ensuring and protecting the rights of these categories. The victims of war have become more and more numerous due to the increase in the number of soldiers involved in conflicts and especially the use of increasingly powerful and destructive weapons and technologies. Although the belligerent states made efforts in this regard, by signing new agreements during the Great War, the overall situation was not exactly the best, the material destruction, the situation of the wounded, refugees, prisoners of war and the huge number of human losses being now at a level never seen before. Regarding the prisoners of war, the fact that they were held by the enemy exposed them to vulnerabilities and acts of revenge, and the need to protect them from a neutral organization was obvious.

The end of the first world war brought with it the need to solve, on the occasion of the Paris Peace Conference, urgent new and difficult problems related to the displacement of the civilian population, the drawing of new borders, the repatriation of a record number of prisoners of war, population exchanges between states, migration, etc. All these challenges were subsumed to the fulfillment of national desires, the creation of sovereign states according to the principle of nationalities recognized more and more internationally. The Peace Conference in Paris in 1919, the International Conference of the Red Cross in Geneva in 1921 paved the way for the adoption of new standards regarding prisoners of war, the wounded and the sick in conflict zones. Through the Additional Protocol of the Geneva Convention of June 17, 1925, the banning of oppressive, poisonous or similar bacteriological means of war was pursued, thus limiting human losses, but, in truth, an adequate solution to the problem in question was achieved with the initiation the revision of the Geneva Convention from 1906 by convening an international congress in Geneva in 1929 to also resolve the issue regarding prisoners of war. The document will be known under

the Ottoman Empire and who enjoyed more rights and freedoms than the inhabitants of the two Romanian states that were under Ottoman rule.

the title of the Geneva Convention of 1929 on the status of prisoners of war through which additions and replacements were made to articles of the previous Hague conventions of 1899 and 1907.

Social and political transformations in the Levant, Russia and later, those of Italy and Germany will impose a prompt reaction of the League of Nations in solving the situation of millions of people forced to leave their country of origin (Bercan & Ciachir, 1984, pp. 399-457). The large number of refugees since the end of the first world war quickly exhausted the resources of the various charitable organizations that had taken care of their financial situation, and the lack of coordination required the creation of a specific body. On February 16, 1921, the High Commissioner for Refugees was established at the proposal of the Red Cross Societies and the International Committee of the Red Cross. The first commissioner appointed was the Norwegian Fridtjof Nansen¹. We remember: the Nansen International Office for Refugees (1931-1938), the Office of the High Commissioner for Refugees from Germany (1933-1938), the Office of the High Commissioner of the League of Nations for Refugees (1939-1946) or the International Committee for Refugees (1938-1947).

Under the mandate of the League of Nations, the first years after the First World War were characterized by the involvement of the member states in the signing of numerous conventions and agreements or the creation of international bodies to mitigate the impact of the displacement of a huge number of people due to political changes, social, or due to political, military and religious conflicts. The difficult situation of the civilian population in Russia, during and after the success of the Bolshevik revolution, the difficult conditions of the Armenians and Kurds in the territory of the former Ottoman Empire, of the Turkish population during the Greco-Turkish War and the atrocities committed during the Spanish Civil War, on prisoners and civilian population, as well as the establishment of fascism and Nazism in Italy and Germany, both, determined the reaction of the Society and later of the League of Nations to act in the direction of the establishment of subordinate bodies and

¹<https://www.unhcr.org/ro/344-rodspre-noievenimente-unhcrpremiul-nansen-pentru-refugiatifridtjof-nansen-html.htm>. In the spring of 1920, Fridtjof Nansen was appointed as High Commissioner for Prisoners of War under the League of Nations, and thanks to his contribution, about 450,000 former prisoners of war from 26 countries were able to return to their countries of origin. In August 1921 he was appointed High Commissioner of the League of Nations for Russian Refugees. Nansen had a major role in the provision of emergency aid for the victims of the Russian famine of 1921-1923, being at the same time concerned to the highest degree with the status and situation of the refugees in the Asian areas. Nansen appointed High Commissioner delegates to refugee-receiving countries, organizing the partnership between the body he led and governments, voluntary charities or even refugees.

institutions that would contribute to the solution of the numerous individual or collective cases from suffering world after the first world war. The discussions regarding the adoption by the members of the League of Nations of the Protocol on the Peaceful Settlement of International Disputes, during 1924, represented another step in the direction of blaming the states that resorted to war as a means to do justice to themselves and the introduction of a new principle of law in international relations, namely that no state can do justice alone, being necessary to appeal to a specialized arbitration body, namely the International Criminal Court.

It must be stated that, although the victorious powers in the war will initiate and sign these agreements, not all European states will adhere to them. As a result, the problem in question will have a different approach, during the interwar period and especially during the Second World War, from the belligerent states or third parties, according to their own national regulations or the signed international agreements. The states at war have always promoted their own interests by presenting their own version of the reality of the situation on the ground, the other side being made responsible for not respecting certain rules of law in war. Such an approach is never at all favorable to the victims of war who are not responsible, in any case, for any type of activities, legal or not, of each of the warring parties.

International humanitarian law was marked, in the interwar period, by the adoption on July 27, 1929 of the Geneva Convention for the Improvement of the Fate of the Wounded and the Sick by a significant number of member states of the League of Nations. The 97 articles as well as the two annexes refer to the repatriation to the countries of origin of war victims, wounded, sick prisoners, based on selections made by mixed commissions that establish the minimum norms and rules regarding the treatment of those held by a third power. The text of the convention refers directly to:

- Protecting prisoners of war from acts of violence, insults, or public curiosity;
- Prohibiting the organization of reprisals against prisoners of war in enemy territory;
- Establishing adequate living conditions in prison camps;
- Establishing clearly and precisely the conditions of detention and evacuation of prisoners;
- Optimum organization of camps/camps with prisoners in terms of their food, hygiene and clothing;

- Respecting the discipline and religious practices, the physical and mental recreation of the prisoners in the camp;
- Strict regulation of prisoners' work;
- Respecting the prisoners' right to receive parcels and letters;
- The correct establishment of criminal sanctions and compliance with judicial procedures regarding prisoners of war;
- Repatriation of prisoners of war in the possession of an enemy power;

Article 79 of the text of the convention expressly refers to the role and importance of the International Committee of the Red Cross in providing data, obtained officially or not, regarding the situation of prisoners of war in the country of origin. The ICRC also has the right to visit all the camps where the prisoners of war are held, based on an international mandate, which allows the ICRC delegations to collect information for the urgent repatriation of the prisoners. Despite all these advances in protecting the rights of war victims, a number of great powers, such as Japan, or the Soviet Union, etc., have not signed the provisions of the new Geneva Convention for the improvement of the fate of the wounded and the sick. The fear of the two states was that, according to the text of the convention, all the contracting parties undertook to allow the representatives of the International Committee of the Red Cross¹ to visit and inspect the prison camps, granting the captured soldiers the humanitarian aid established by international conventions and treaties. Soviet ideology and Japan's militarist doctrine did not allow this, citing either interference in their internal affairs, or considering imprisonment as a punishment applied to all captured foreign soldiers. Thus, for the many prisoners of war who fell on the Eastern Front, in the Second World War, the international regulations of the Geneva Convention were invalid, their legal situation being regulated by the internal Soviet legislation or, in the Far East, by the Japanese legislation.

this sense, a specific situation can be identified for foreign prisoners during the Second World War. The international legal situation meant that not all those in captivity benefited from the rights and obligations stipulated in the current conventions, protocols and agreements, because not all the states participating in the conflict were signatories of them. Moreover, the legal status of some countries or

¹ Article 88 of the convention recognizes the explicit mandate of the International Committee of the Red Cross in applying the provisions through its delegates with the right to visit all prison camps. Also, each signatory state obtained the right to grant the necessary humanitarian aid to its soldiers who were captured.

regions will change radically, being now assimilated to the current laws and governance, such as the case of those who lived in the territories annexed by the Soviet Union and Germany at the beginning of the war.

Another important moment in addressing the problem of war victims in general and refugees, in particular, will be represented by the accession of the signatory states of the League of Nations to the Convention on the Status of Refugees of October 28, 1933, committing to respect international standards regarding the protection of rights the civilian refugee population, with exact reference to the application of the principle of non-return of those in question and the establishment of refugee status to all those who met the conditions stipulated in the previous agreements and conventions.

The entire international legislation, adopted regarding the laws of war, international humanitarian law regarding the status of refugees from conflict zones, the wounded or prisoners of war, reflects the desire of the international public opinion to codify through treaties, protocols and conventions the human rights at risk to be violated during exceptional situations. The involvement of world states and international organizations is a primary concern of contemporary international relations considering the large number of ongoing conflicts around the globe and their media coverage through the mass media. The risk of violating the provisions of the Geneva Conventions, in this case, is huge, which is why anyone can contribute to the respect and correct application of fundamental human rights, the United Nations needing support in this case.

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