

An Elaboration on the Violated Rights of the Iranian War

Captives in Iraq

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Abstract

Thirty-first of August 1980 is a black history that will never be removed from the historical memory of the Iranians. Because in this day Baath government in Iraq, began a full-scale aggression against the country's land-air and sea, people, and government, but without any apparent reason, without notice and without even giving a chance to civilians to leave the war scene. Conflict occurs with a lot of effects and consequences, and one of the consequences of war is capturing forces of a party by the other one. Captured is said to a person who is imprisoned during participating in armed conflict. During the 8-year Iran-Iraq war, many Iranian captives were sent to prisons in Iraq and the transfer code to the country after the war, began in year 1369 and lasted to 1381. Legal documents, such as the 1949 Geneva Convention, Articles of Association of the International Criminal Court, the pro-government party, the International Committee of the Red Cross.... and human rights protection are the most important mechanisms in support of captives in international law.

Key words: rights of captives of war, the law of armed conflict, international humanitarian law, war, Iran and Iraq.

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Introduction

In the past rules of customary international law governing armed conflicts, it can be noted to each of the four Geneva Conventions each of which advocate certain categories of people. Third Geneva Convention on the protection of captives of war. But during the Iraq War, the Iraqi government, the hostile one, did not comply none of these cases. After the outbreak of war between the two countries, one of the most important issues in the political equation, military and warlike spirit of fighting forces, is capturing the enemy forces out. The party, who has a substantial share of the captured forces, uses it as a bargaining chip in political negotiations. In addition, information can be obtained from enemy captives of their facilities and programs and system, is extremely in high value. Also capturing enemy forces weakens the morale of their front. The war between Iran and Iraq is no exception, with both sides trying to add a number of his captives (Azizi, 1389: 143) Around 40/ 000 of thousands of Iraqi troops were captured by Iran During the eight years war. Despite Iraq's membership in the 1949 Geneva Conventions, which requires the protection of captives of war, but the behavior of the Iraqi government and military are all has been violations of international humanitarian law. (Dai, 1387: 91). In this article we review the principles and rules relating to the protection of captives of war and briefly examine violations of international humanitarian law POWs in Iraq and try to answer the questions like that:

1-Who is the captive of war? 2. What are the principles governing the protection of captives of war? 3. Which rights have been violated Iranian captives of war in Iraq? 4. When slavery ends?

1. The international protection of captives of war

The most important feature of a captive is and depriving and limitations of freedom which are the particular circumstances applied to him. And because of this limitation, the lack of freedom and being captive of others, are more exposed than others, and their rape, sexual abuse and right Milling is much easier. So because of this condition, there should be legal and emotional support and respect international conventions and laws and regulations related to general human being to support them. The legal status of captives

of war includes several aspects: Captives should be treated with humanity; captives should be placed in safe places away from the battlefield and in the camps for accommodation. The classifications done in various laws divides captives Generally to: , the A) military captives and B) captives civilian each of these two groups has privileges and duties according to the type of work and rights which some of them common and others are specific to one's own group. (Murphy, 2003: 263). In ancient times, Bondage or slavery was synonymous with death. Captives of war were somehow protected only in the great civilizations such as Iran ancient civilizations or later during the Islamic civilization. This procedure was continued until the beginning of the seventeenth century

Then gradually work of legal scholars and precursors of humanism bore and the principles and rules of protection of captives of war began to change in this regard. (Fleck, 1995: 12). Like the Brussels Declaration of 1874 (Articles 23 and 24)¹, Chapter II of the Fourth Convention dated 1907 regular rules (Articles 2 to 20)², 27 July 1929 Geneva Convention, the 1949 Geneva Convention III, and the provisions of Additional Protocol I to the 1977 Conventions Geneva, including (1, 5, 6, 43, 45, 46, 47 and 75). Based on these rules, the soldiers give the title of people who are fighting or "captive of war" and they receive related supports³.

Prohibition of torture and degrading treatment and to avoid any disrespect to the character and integrity of the hostile forces, are the basic principles of the Geneva Conventions. The most important part of international humanitarian law conventions returns to "Geneva". Treaties to protect the people who are fighting or fighters who wounded or captured, have their own regulations. The history of the so-called convention backs to year 1864M-. Pond subsequent conferences adopted regulations in the 1906 and 1929M. ICRC established to protect the wounded and collect information about the captives. But finally in August 1949M with amendments and additions to mentioned legislation in 3rd Conventions, countries were approved document in 4 stages. (Babai, 1392). Based on these

¹. project of an international declaration concerning the laws and customs of war.brussels, 27 august 1874.

². convention (IV) respectin the laws and custom of war on land and its annex:regulation concerning the laws and customs of war on land. The Hague, 18 october 1907.

³. Article 4, Geneva Convention III and Articles 43 & 44 of Additional Protocol I

considerations and requirements of humanity, the state of captive of war begins⁴, as soon as the fighter of the war, or other people who are fighting, are captured by the other side. So, at the beginning of the end of the captivity and returning to the homeland, life, property, physical and mental health, and their dignity is respected and protected. Captive power is responsible for ensuring the humane treatment and respect for captives of war.⁵ This means that captives must be kept safe⁶ and not injured; Hold them in human condition, such as the armed forces and to secure areas and then transfer to a permanent detention.⁷ The investigation and interrogation of captives of war, to identify and take military information from them, is prohibited.⁸ All states are required to clear and react violations of its regulations and other regulations and force the offender states to comply with it.⁹

2. Examples of violations of the rights of iranian captives of war in Iraq

Following the rules and commands, the captor Detention of captives of war from the beginning, (not those who arrested them directly) has special legal status In many cases, which the Iraqi government has violated all the so-called rules. We will the briefly mention some of them:

2.1. Arbitrary executions of combatants and murder of victims

Any researcher who has studied evidence of Iran's memoir of the captives became free or talked them, found, will be reached to a conclusion which is that the Iraqi military had no interest in the capture of Iranian combatants. Almost every Iranian soldier captured by Iraqi troops has reported cases of arbitrary execution, murder victims using the final bullet, execute arbitrary murder of injured in battle fronts. If the Iraqi military know or suspect an Iranian soldier is a watchman, or the very forefront of the Iranian, killed him or separated him from other captured in

⁴ . Articles 4 & 6, Geneva Convention III and Articles 41, 44 & 54 of Additional Protocol I

⁵ . Articles 12,13 & 14, Geneva Convention III

⁶ . Article 15, Geneva Convention III

⁷ . Articles 19 & 20, Geneva Convention III

⁸ . Articles 17 & 18, Geneva Convention III

⁹ . Common Article I, Geneva Conventions

Baghdad so that his news did not spread. Such incidents occurred frequently. Repetition of these actions as war crimes are the most important cases of violations in the third convention,¹⁰ and their widespread and systematic sign (Dai, 1387: 97-98).

2.2. Negligence and lack of treatment to injured

According to international humanitarian law, each of the Parties to the conflict shall, without delay, search and collect the wounded and sick, and in the shortest possible time put them under proper medical care.¹¹ This principle applies has been approved to other instruments of international humanitarian law.¹² If the violation leads to the killing, maiming and delivered to the victims of the severe disease, is the sign of war crimes and violations of the Third Convention. (Ibid: 98).

2.3. Not knowing the fate of captives

ICRC report on 17th Ordibehesht stated: "The ICRC has been able to confidently declare that many Iranian captives deliberately kept secret by the Iraqi authorities from the beginning of the war. The Committee has prepared a list of the names of hundreds of such captives. The captives are detained in secret locations where the ICRC has been unable to reach "(Babai, 1392).

Although Article 70 of the Third Convention, which provides that POWs imprisoned for up to one week after the school board and entry to the main facility Should be able to fill a card that contains their profile to send to their families and the Central Intelligence POWs Agency, The Iraqi government refused registration of captives of war and kept them in secret camps. "Alexander Fi" in this regard at the Manila conference, said: "Some of the captives of war in Iraq are kept away

¹⁰ . Article 130, Geneva Convention III

¹¹ . Article 15, Geneva Convention I; Article 18, Geneva Convention II; Article 12, Geneva Convention III; Article 16, Geneva Convention IIII; and Articles 41, Additional Protocol I

¹² . Article 23, Hague Laws

from the reach of the Red Cross and their identity, is incomplete and is generally associated with procrastination."¹³ (Ibid).

2.4. Beating and torture of Iranian captives

Prohibition of torture and degrading treatment and avoid any damage to reputation and disrespect for the dignity and integrity of the hostile forces, all are the common principles to four Geneva Conventions which its second contract is for the captives, and more sensitive and more emphatically expressed. But during the war and the years that followed, Iraq frequently and widely violated the basic rights of Iranian captives, which for Incomplete understanding of that fact that it should be referred to their biographies and memoirs. The mission of the author in reference to international instruments largely limited range of events, but this small amount is also striking and amazing.

This kind of torture caused injuries at the hands and feet ankle, that, even after several weeks its scar is left. In some cases, Captives exposed to sunlight, hung by his hands and feet tied and without food and water to enter the punches and hard kicks blows to sensitive parts of the body. Some injuries are so severe that captives were not able to walk for a few days or weeks. The sign of the deep troughs of meat wrists and calluses wrists and legs that had been examined by ICRC doctors was consistent with the description of the abuse. "(Consignment M., 1382: 70).

In another report from the International Committee of the Red Cross camp "Plug 2" states that 40 guards beat 180 newly captured the camp "" with cables and sticks and Command participated in this activity.¹⁴ Revisit Committee's report from the same camp is the further evidence of this claim. The report states: "The buses leave comments on the transfer of captives from the camp" Plug 4 "to" Plug 2 ", 1700 forced the captive passing between two rows of guards who beat them with batons and cables. At last several captives were injured and two of them lost their eyes.¹⁵

¹³ . Official Statements dated 09/05/1983 & 13/02/1984

¹⁴ . Visit Reports of Mosel 2 Prison (09/11/1983 to 11/11/1983)

¹⁵ . Visit Reports of Mosel 2 Prison (23/05/1984 to 25/05/1984)

2.5. Failure to comply with the rules on residence status of captives

Crowding too much body hostels without cleaning and integration of different beliefs that are shared dormitories, are one of the examples of violations of the provisions of the Third Geneva Convention, Exemplify the accident of "Moussl one" camp. After the transfer of 500 captives from the camp "Moussl 2" and integrate them in a hostel, leading to clashes where shooting guards of the camp which was a clear violation of Article 42 of the Third Geneva Convention, caused several injuries and 4 captured were killed. This event is also reflected in the report of the UN mission (Babai, 1392).

Another example is the Red Cross representatives reported that: "Moussl 1 camp sewage system had a bad situation from December 60 until revisit Representatives in July 61 which has been enacted in the same way."¹⁶

2.6. Capturing civilians, including women, children and the elderly

Article 24 of the Fourth Convention and Articles 76 to 78 of Additional Protocol I are respectful of the rights of women and children for their own and want to avoid any violation of the essential dignity and modesty of them, This is while the Iraqi military, captured women, children and the nurses and doctors, from health centers, bringing into captivity and had been beaten them. Also, The Baathist captured forces thousands of people in the occupied territories, including the elderly and women captives and transferred them to Iraq." Alexander Hay," the ICRC's head of the Manila Conference stated in his report, ": "Civilians, children, women and elderly people who despite repeated requests from the Red Cross were evacuated during the Iraqi invasion, held as a captive of war in Iraq."¹⁷

2.7. Transport Iranian captives to secret jails or public prisons in Iraq (violation of 12, 13, 14, and 126 of the Third Geneva Convention).¹⁸

2.8. Looting POWs in Started captivity and not returning back to the homeland that violation of 14, 40 and 114 of the Third Geneva Convention requirements. (Abdolmaleki, 1384: 106).

¹⁶ . Official Statements, 9/05/1983 & 13/02/1984

¹⁷ . International Committee of Red Cross Report, Ettelaat Newspaper, No. 16572, May 1981

¹⁸ . R-1093, ICRC report on visit to prisoner of war camp romadi 1,26,27 and 28 July 1981 at para.20.

3. The end of the war captivity

Captivity may end during or after the end of war and captives return to their home country; But this is subject to the fulfillment of the following conditions or causes: Death of captive, captive exchanges, warranty or promise of captives, escaped captives, injury or illness of captives, and finally the end of active hostilities (ZIAI Bigdeli, 1366: 175).

4. Conclusion

In history, the status of captives of war, has seen major changes. Long ago they were for the victors who could either kill or enslave them. Until the 1874 Declaration of Brussels and the Hague treaties of 1899 and 1907, Laws governing the treatment of captives of war mainly based on the common law; But today the international conventions like the third Geneva Convention, dated August 12, 1949 to be considered have the fundamental role in this area. Captives cannot be forced to the express information and material unlike his wish and.... However, experience has shown that the rules of international humanitarian law are less respected. We witnessed in the eight years of war, the provisions of the military and Iraqi officials, were the worst abuses of the Iranian captives of war.

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