

## 66. INTERNATIONAL CONVENTION CONCERNING THE LAWS AND CUSTOMS OF WAR ON LAND\*

Done at The Hague, on 18 October 1907

Entry into force: 26 January 1910

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[*Translation*]

(List of Contracting Parties)

Considering that, while seeking means to preserve peace and prevent armed conflicts between nations, it is likewise necessary to bear in mind the case where an appeal to arms may be brought about by events beyond their responsibility to control;

Being animated also by the desire to serve, even in this extreme case, the interests of humanity and the ever-progressive needs of civilization; and

Thinking it important, with this object, to revise the general laws and customs of war, with the view on the one hand of defining them with greater precision, and, on the other hand, of confining them within limits intended to mitigate their severity as far as possible;

Have deemed it necessary to complete and render more precise in certain particulars the work of the First Peace Conference, which, following on the Brussels Conference of 1874, and inspired by the ideas dictated by a wise and generous forethought, adopted provisions intended to define and regulate the usages of war on land.

According to the views of the High Contracting Parties, these provisions, the drafting of which has been inspired by the desire to diminish the evils of war, so far as military requirements permit, are intended to serve as a general rule of conduct for the belligerents in their mutual relations and in their relations with the inhabitants.

It has not, however, been found possible at present to concert stipulations covering all the circumstances which arise in practice;

On the other hand, the High Contracting Parties clearly do not intend that unforeseen cases should, in default of written agreement, be left to the arbitrary opinion of military commanders.

Until a more complete code of the laws of war can be drawn up, the High Contracting Parties deem it expedient to declare that, in cases not covered by the rules adopted by them, the inhabitants and the belligerents remain under the protection and governance of the principles of the law of nations, derived from the usages established among civilized peoples, from the laws of humanity, and from the dictates of the public conscience.

They declare that it is in this sense especially that Articles 1 and 2 of the Regulations adopted must be understood.

The High Contracting Parties, wishing to conclude a fresh Convention to this effect, have appointed as their Plenipotentiaries, that is to say:

(Here follow the names of the Plenipotentiaries)

Who, after having deposited their full powers, found to be in good and due form, have agreed upon, the following:

### Article 1

The Contracting Powers 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.

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\* This Convention is referred to as No. IV of the Instruments signed at the Second Peace Conference at the Hague.

**Article 2**

The provisions contained in the Regulations referred to in Article 1 as well as in the present Convention, do not apply except between Contracting Powers, and then only if all the belligerents are parties to the Convention.

**Article 3**

A belligerent party which violates the provisions of the said Regulations shall, if the case demands, be liable to pay compensation. It shall be responsible for all acts committed by persons forming part of its armed forces.

**Article 4**

The present Convention, duly ratified, shall replace, as between the Contracting Powers, the Convention of the 29th July, 1899, respecting the Laws and Customs of War on Land.

The Convention of 1899 remains in force as between the Powers which signed it, but which do not ratify the present Convention.

**Article 5**

The present Convention shall be ratified as soon as possible.

The ratifications shall be deposited at The Hague.

The first deposit of ratifications shall be recorded in a Protocol signed by the Representatives of the Powers which take part therein and by the Netherlands Minister for Foreign Affairs.

The subsequent deposits of ratifications shall be made by means of a written notification, addressed to the Netherlands Government and accompanied by the instrument of ratification.

A duly certified copy of the Protocol relating to the first deposit of ratifications, of the notifications mentioned in the preceding paragraph, and of the instruments of ratification, shall be immediately sent by the Netherlands Government, through the diplomatic channel, to the Powers invited to the Second Peace Conference, as well as to the other Powers which have acceded to the Convention. The said Government shall, in the cases contemplated in the preceding paragraph, inform them at the same time of the date on which it received the notification.

**Article 6**

Non-Signatory Powers may accede to the present Convention.

A Power which desires to accede notifies its intention in writing to the Netherlands Government, forwarding to it the act of accession, which shall be deposited in the archives of the said Government.

The said Government shall immediately forward to all the other Powers a duly certified copy of the notification as well as of the act of accession, mentioning the date on which it received the notification.

**Article 7**

The present Convention shall take effect, in the case of the Powers which were parties to the first deposit of ratifications, sixty days after the date of the Protocol recording such deposit, and, in the case of the Powers which shall ratify subsequently or which shall accede, sixty days after the notification of their ratification or of their accession has been received by the Netherlands Government.

**Article 8**

In the event of one of the Contracting Powers wishing to denounce the present Convention, the denunciation shall be notified in writing to the Netherlands Government, which shall immediately

communicate a duly certified copy of the notification to all the other Powers, informing them of the date on which it was received.

The denunciation shall only operate in respect of the denouncing Power, and only on the expiry of one year after the notification has reached the Netherlands Government.

#### **Article 9**

A register kept by the Netherlands Ministry for Foreign Affairs shall record the date of the deposit of ratifications effected in virtue of Article 5, paragraphs 3 and 4, as well as the date on which the notifications of accession (Article 6, paragraph 2) or of denunciation (Article 8, paragraph 1) have been received.

Each Contracting Power is entitled to have access to this register and to be supplied with duly certified extracts from it.

In faith whereof the Plenipotentiaries have appended their signatures to the present Convention.

Done at The Hague, the 18th October, 1907, in a single original, which shall remain deposited in the archives of the Netherlands Government, and of which duly certified copies shall be sent, through the diplomatic channel, to the Powers invited to the Second Peace Conference.

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

#### **SECTION I. OF BELLIGERENTS**

##### **CHAPTER I. THE STATUS OF BELLIGERENT**

#### **Article 1**

The laws, rights, and duties of war apply not only to the army, but also to militia and volunteer corps fulfilling all the following conditions:

1. They must be commanded by a person responsible for his subordinates;
2. They must have a fixed distinctive sign recognizable at a distance;
3. They must carry arms openly; and
4. They must conduct their operations in accordance with the laws and customs of war.

In countries where militia or volunteer corps constitute the army, or form part of it, they are included under the denomination "army".

#### **Article 2**

The inhabitants of a territory not under occupation, who, on the approach of the enemy, spontaneously take up arms to resist the invading troops without having had time to organize themselves in accordance with Article 1, shall be regarded as belligerents if they carry arms openly and if they respect the laws and customs of war.

#### **Article 3**

The armed forces of the belligerents may consist of combatants and non-combatants. In the case of capture by the enemy, both have the right to be treated as prisoners of war.

##### **CHAPTER II. PRISONERS OF WAR**

#### **Article 4**

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

They must be humanely treated.

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

#### **Article 5**

Prisoners of war may be interned in a town, fortress, camp, or other place, and are bound not to go beyond certain fixed limits; but they cannot be placed in confinement except as an indispensable measure of safety and only while the circumstances which necessitate the measure continue to exist.

#### **Article 6**

The State may employ the labour of prisoners of war, other than officers, according to their rank and capacity. The work shall not be excessive and shall have no connection with the operations of the war.

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

Work done for the State is paid for at rates proportional to the work of a similar kind executed by soldiers of the national army, or, if there are no such rates in force, at rates proportional to the work executed.

When the work is for other branches of the public service or for private persons the conditions are 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 on their release, deductions on account of the cost of maintenance excepted.

#### **Article 7**

The Government into whose hands prisoners of war have fallen is charged with their maintenance.

In default of special agreement between the belligerents, prisoners of war shall be treated as regards rations, quarters, and clothing on the same footing as the troops of the Government which captured them.

#### **Article 8**

Prisoners of war shall be subject to the laws, regulations, and orders in force in the army of the State in the power of which they are. Any act of insubordination justifies the adoption towards them of such measures of severity as may be considered necessary.

Escaped prisoners who are retaken before being able to rejoin their own army or before leaving the territory occupied by the army which captured them are liable to disciplinary punishment.

Prisoners who, after succeeding in escaping, are again taken prisoners, are not liable to any punishment on account of their previous escape.

#### **Article 9**

Every prisoner of war is bound to give, if questioned on the subject, his true name and rank, and if he infringes this rule, he is liable to have the advantages given to prisoners of his class curtailed.

#### **Article 10**

Prisoners of war may be set at liberty on parole if the laws of their country allow it, and, in such cases, they are bound, on their personal honour, scrupulously to fulfil, both towards their own Government and the Government by which they were made prisoners, the engagements they may have contracted.

In such cases their own Government is bound neither to require of nor accept from them any service incompatible with the parole given.

#### **Article 11**

A prisoner of war cannot be compelled to accept his liberty on parole; similarly the hostile Government is not obliged to accede to the request of a prisoner to be set at liberty on parole.

#### **Article 12**

Prisoners of war liberated on parole and recaptured bearing arms against the Government to which they had pledged their honour, or against the allies of that Government, forfeit their right to be treated as prisoners of war, and may be put on trial before the Courts.

#### **Article 13**

Individuals following an army without directly belonging to it, such as newspaper correspondents or reporters, sutlers or contractors, who fall into the enemy's hands and whom the latter thinks it expedient to detain, are entitled to be treated as prisoners of war, provided they are in possession of a certificate from the military authorities of the army which they were accompanying.

#### **Article 14**

A bureau for information relative to prisoners of war is instituted at the commencement of hostilities in each of the belligerent States, and, when necessary, in neutral countries which have received belligerents on their territory. The business of this bureau is to reply to all inquiries about the prisoners, to receive from the various services concerned full information respecting internments and transfers, releases on parole, exchanges, escapes, admissions into hospital, deaths, as well as all other information necessary to enable it to make out and keep up to date an individual return for each prisoner of war. The bureau must state in this return the regimental number, name and surname, age, place of origin, rank, unit, wounds, date and place of capture, internment, wounding, and death, as well as any observations of a special character. The individual return shall be sent to the Government of the other belligerent after the conclusion of peace.

It is also the business of the information bureau to gather and keep together all personal effects, valuables, letters, &c., found on the field of battle or left by prisoners who have been released on parole, or exchanged, or who have escaped, or died in hospitals or ambulances, and to forward them to those concerned.

#### **Article 15**

Societies for the relief of prisoners of war, if properly constituted in accordance with the laws of their country and with the object of serving as the channel for charitable effort, shall receive from the belligerents, for themselves and their duly accredited agents, every facility for the efficient performance of their humane task within the bounds imposed by military exigencies and administrative regulations. Representatives of these societies, when furnished with a personal permit by the military authorities, may, on giving an undertaking in writing to comply with all measures of order and police which they may have to issue, be admitted to the places of internment for the purpose of distributing relief, as also to the halting places of repatriated prisoners.

#### **Article 16**

Information bureaux enjoy the privilege of free carriage. Letters, money, orders, and valuables, as well as postal parcels, intended for prisoners of war, or dispatched by them, shall be exempt from all postal charges in the countries of origin and destination, as well as in the countries they pass through.

Presents and relief in kind for prisoners of war shall be admitted free of all import or other duties, as well as any payment for carriage by State railways.

**Article 17**

Officers taken prisoners shall receive the same rate of pay as officers of corresponding rank in the country where they are detained; the amount shall be refunded by their own Government.

**Article 18**

Prisoners of war shall enjoy complete liberty in the exercise of their religion, including attendance at the services of their own Church, on the sole condition that they comply with the police regulations issued by the military authorities.

**Article 19**

The wills of prisoners of war are received or drawn up in the same way as for soldiers of the national army.

The same rules shall be followed as regards documents concerning the certification of the death and also as to the burials of prisoners of war, due regard being paid to their grade and rank.

**Article 20**

After the conclusion of peace, the repatriation of prisoners of war shall be carried out as quickly as possible.

**CHAPTER III. THE SICK AND WOUNDED**

**Article 21**

The obligations of belligerents with regard to the sick and wounded are governed by the Geneva Convention.

**SECTION II. OF HOSTILITIES**

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

**Article 22**

Belligerents have not got an unlimited right as to the choice of means of injuring the enemy.

**Article 23**

In addition to the prohibitions provided by special Conventions, it is particularly forbidden:

- (a) To employ poison or poisoned weapons;
- (b) To kill or wound by treachery individuals belonging to the hostile nation or army;
- (c) To kill or wound an enemy who, having laid down his arms, or no longer having means of defence, has surrendered at discretion;
- (d) To declare that no quarter will be given;
- (e) To employ arms, projectiles, or material calculated to cause unnecessary suffering;
- (f) To make improper use of a flag of truce, of the national flag, or of the military insignia and uniform of the enemy, as well as of the distinctive signs of the Geneva Convention;
- (g) To destroy or seize enemy property, unless such destruction or seizure be imperatively demanded by the necessities of war;
- (h) To declare abolished, suspended, or inadmissible the right of the subjects of the hostile party to institute legal proceedings.

A belligerent is likewise forbidden to compel the subjects of the hostile party to take part in the operations of war directed against their own country, even if they were in the service of the belligerent before the commencement of the war.

#### **Article 24**

Ruses of war and the employment of measures necessary for obtaining information about the enemy and the country are considered permissible.

#### **Article 25**

The attack or bombardment, by any means whatever, of undefended towns, villages, dwellings, or buildings, is forbidden.

#### **Article 26**

The officer in command of an attacking force must do all in his power to warn the authorities before commencing a bombardment, except in cases of assault.

#### **Article 27**

In sieges and bombardments all necessary steps must be taken to spare, as far as possible, buildings dedicated to public worship, art, science, or charitable purposes, historic monuments, hospitals, and places where the sick and wounded are collected, provided they are not being used at the time for military purposes.

It is the duty of the besieged to indicate such buildings or places by distinctive and visible signs, which shall be notified to the enemy beforehand.

#### **Article 28**

The giving over to pillage of a town or place, even when taken by assault, is forbidden.

### **CHAPTER II. SPIES**

#### **Article 29**

A person can only be considered a spy when, acting clandestinely or on false pretences, he obtains or endeavours to obtain information in the zone of operations of a belligerent, with the intention of communicating it to the hostile party.

Accordingly, soldiers not wearing a disguise who have penetrated into the zone of operations of the hostile army, for the purpose of obtaining information, are not considered spies. Similarly, the following are not considered spies: Soldiers and civilians intrusted with the delivery of despatches intended either for their own army or for the enemy's army, and carrying out their mission openly. To this class likewise belong persons sent in balloons for the purpose of carrying despatches and, generally, of maintaining communications between the different parts of an army or a territory.

#### **Article 30**

A spy taken in the act shall not be punished without previous trial.

#### **Article 31**

A spy who, after rejoining the army to which he belongs, is subsequently captured by the enemy, is treated as a prisoner of war, and incurs no responsibility for his previous acts as a spy.

**CHAPTER III. FLAGS OF TRUCE****Article 32**

A person is regarded as bearing a flag of truce who has been authorized by one of the belligerents to enter into communication with the other, and who presents himself under a white flag. He is entitled to inviolability, as also the trumpeter, bugler or drummer, the flag-bearer and the interpreter who might accompany him.

**Article 33**

The commander to whom a flag of truce is sent is not obliged in every case to receive it.

He may take all steps necessary in order to prevent the envoy from taking advantage of his mission to obtain information.

In case of abuse, he has the right temporarily to detain the envoy.

**Article 34**

The envoy loses his rights of inviolability if it is proved in a positive and incontestable manner that he has taken advantage of his privileged position to provoke or commit an act of treachery.

**CHAPTER IV. CAPITULATIONS****Article 35**

Capitulations agreed upon between the contracting parties must take into account the rules of military honour.

Once settled, they must be scrupulously observed by both parties.

**CHAPTER V. ARMISTICES****Article 36**

An armistice suspends military operations by mutual agreement between the belligerent parties. If its duration is not defined, the belligerent parties may resume operations at any time, provided always that the enemy is warned within the time agreed upon, in accordance with the terms of the armistice.

**Article 37**

An armistice may be general or local. The first suspends the entire military operations of the belligerent States; the second between certain portions of the belligerent armies only and within a fixed zone.

**Article 38**

An armistice must be notified officially and in good time to the competent authorities and to the troops. Hostilities are suspended immediately after the notification, or at the time fixed.

**Article 39**

It rests with the contracting parties to settle, in the terms of the armistice, the relations which may be allowed in the theatre of war with, and between, the civil populations.

**Article 40**

Any serious violation of the armistice by one of the parties gives the other party the right of denouncing it, and even, in cases of urgency, of recommencing hostilities immediately.

**Article 41**

A violation of the terms of the armistice by individuals acting on their own initiative only entitles the injured party to demand the punishment of the offenders and, if there is occasion for it, compensation for the losses sustained.

**SECTION III. MILITARY AUTHORITY OVER THE TERRITORY OF THE HOSTILE STATE**

**Article 42**

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

The occupation extends only to the territory where such authority has been established and is in a position to assert itself.

**Article 43**

The authority of the power of the State having passed *de facto* into the hands of the occupant, the latter shall do all in his power to restore, and ensure, as far as possible, public order and safety, respecting at the same time, unless absolutely prevented, the laws in force in the country.

**Article 44**

A belligerent is forbidden to compel the inhabitants of territory occupied by it to furnish information about the army of the other belligerent, or about its means of defence.

**Article 45**

It is forbidden to force the inhabitants of occupied territory to swear allegiance to the hostile Power.

**Article 46**

Family honour and rights, individual life, and private property, as well as religious convictions and worship, must be respected.

Private property may not be confiscated.

**Article 47**

Pillage is expressly forbidden.

**Article 48**

If, in the territory occupied, the occupant collects the taxes, dues, and tolls payable to the State, he shall do so, as far as is possible, in accordance with the legal basis and assessment in force at the time, and shall in consequence be bound to defray the expenses of the administration of the occupied territory to the same extent as the national Government had been so bound.

**Article 49**

If, in addition to the taxes mentioned in the above Article, the occupant levies other money contributions in the occupied territory, they shall only be applied to the needs of the army or of the administration of the territory in question.

**Article 50**

No collective penalty, pecuniary or otherwise, shall be inflicted upon the population on account of the acts of individuals for which it cannot be regarded as collectively responsible.

**Article 51**

No contribution shall be collected except under a written order, and on the responsibility of a General in command.

The collection of the said contribution shall only be effected in accordance, as far as is possible, with the legal basis and assessment of taxes in force at the time.

For every contribution a receipt shall be given to the contributors.

**Article 52**

Requisitions in kind and services shall not be demanded from local authorities or inhabitants except for the needs of the army of occupation. They shall be in proportion to the resources of the country, and of such a nature as not to involve the inhabitants in the obligation of taking part in military operations against their own country.

Such requisitions and services shall only be demanded on the authority of the commander in the locality occupied.

Contributions in kind shall as far as possible be paid for in ready money; if not, a receipt shall be given and the payment of the amount due shall be made as soon as possible.

**Article 53**

An army of occupation shall only take possession of cash, funds, and realizable securities which are strictly the property of the State, depots of arms, means of transport, stores and supplies, and, generally, all movable property belonging to the State which may be used for military operations.

Except in cases governed by naval law, all appliances adapted for the transmission of news, or for the transport of persons or goods, whether on land, at sea, or in the air, depots of arms, and, in general, all kinds of war material may be seized, even if they belong to private individuals, but they must be restored at the conclusion of peace, and indemnities must be paid for them.

**Article 54**

Submarine cables connecting an occupied territory with a neutral territory shall not be seized or destroyed except in the case of absolute necessity. They also must be restored at the conclusion of peace, and indemnities paid for them.

**Article 55**

The occupying State shall be regarded only as administrator and usufructuary of public buildings, landed property, forests, and agricultural undertakings belonging to the hostile State, and situated in the occupied country. It must safeguard the capital of such properties, and administer them in accordance with the rules of usufruct.

**Article 56**

The property of local authorities, as well as that of institutions dedicated to public worship, charity, education, and to science and art, even when State property, shall be treated as private property.

Any seizure or destruction of, or wilful damage to, institutions of this character, historic monuments and works of science and art, is forbidden, and should be made the subject of legal proceedings.

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