



## Complying with IHL in large-scale conflicts: detention operations in international armed conflicts

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*Large-scale detention operations in international armed conflicts (IACs) pose significant humanitarian, legal, and operational challenges. International humanitarian law (IHL) provides detailed rules governing the treatment and protection of persons deprived of liberty, whether they are prisoners of war, other persons interned for security reasons, or other protected persons. These obligations, enshrined primarily in the Third and Fourth Geneva Conventions, require not only compliance once the armed conflict begins, but advance planning during peacetime. Without the appropriate institutions, infrastructures, and trained personnel in place beforehand, states risk falling short of their legal obligations when hostilities erupt, to the detriment of detainees' rights and dignity.*

*In this post, ICRC Legal Advisers Sylvain Vité and Isabelle Gallino explore what it takes to comply with IHL in large-scale detention operations during IACs, focusing on the preparatory measures that states must undertake long before the first capture. Building on the [previous post](#) in this series, they highlight the critical need to establish functioning legal and administrative mechanisms, ensure the availability of adequate facilities and resources, and embed IHL training across relevant personnel.*

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International humanitarian law provides essential safeguards for people detained in relation to international armed conflicts, with the [scope of these protections depending on their status](#). Those who qualify as prisoners of war (POWs) – or are entitled to be treated as such<sup>[1]</sup> – are protected under the Third Geneva Convention of 1949 (GCIII), which establishes a comprehensive set of rules for their treatment from capture through to release and repatriation. Those who do not qualify for POW status, but who are nonetheless [detained for security reasons in the context of IACs](#), are protected under the Fourth Geneva Convention of 1949 (GCIV), provided they are not nationals of the Detaining Power.<sup>[2]</sup> Under certain conditions, the Geneva Conventions also contain provisions for individuals detained on criminal charges.<sup>[3]</sup> Those who do not benefit from more favorable treatment under the Geneva Conventions or Additional Protocol I of 1977 (API) remain entitled to fundamental guarantees, as listed under Article 75 of the Protocol. In addition, applicable rules also exist under customary IHL.

In order to comply with this detailed set of rules in times of IAC, states must take preparatory measures in advance. These include a preliminary estimation of the number of persons who may be taken into custody and the resources available to manage their detention in accordance with IHL. Such assessments are key to determining the space and equipment needed for internment facilities, and to anticipating needs in terms of personnel, resources, and logistics. They are also essential for ensuring reliable access to food, water, medical care, and other basic services. Where multinational operations are anticipated, joint preparation among partners is also an important aspect.<sup>[4]</sup> Participating states must clarify roles and responsibilities in joint detention operations,<sup>[5]</sup> agree on the applicable legal frameworks and procedures, and establish coordination mechanisms. This is especially important where detainees are expected to be transferred between partners.<sup>[6]</sup>

The present post explores some practical implications of this preparatory work, highlighting challenges where large-scale detention operations might occur.<sup>[7]</sup> States are expected to take measures in terms of institutions and processes, infrastructures and equipment, and training and instructions.<sup>[8]</sup>

## **Institutions and processes**

Anticipating compliance with IHL in IACs requires that state parties to the Geneva Conventions ensure that relevant institutions are in place, responsibilities clearly assigned, and processes well understood. In some cases, the Conventions explicitly require the establishment of designated entities and processes. In others, however, the requirements to establish institutional mechanisms are implicit – embedded in the need to implement specific rules effectively. Whether explicit or implicit, states must plan for this complex institutional framework well in advance, during peacetime. Only through such advance planning can the necessary mechanisms be ready to function immediately in the event of an IAC.

### ***Status determination and detention review***

Under GCIII, state parties must ensure that a “competent tribunal” is established to determine whether a person who has committed a belligerent act and fallen into the power of an enemy is entitled to POW status.<sup>[9]</sup> Such decisions are required whenever the status of a detained enemy combatant is in doubt. It is not always clear whether a detainee falls within one of the POW categories defined under Article 4(1) GCIII or Article 44(1) API. Determining status may require further investigation – for example, into whether the persons carried arms openly while participating in hostilities, or whether they might qualify as a spy or a mercenary. From a preparedness perspective, the obligation to establish a competent tribunal means that relevant domestic legislation must be in place – clearly setting out the tribunal’s composition, jurisdiction and procedure, including the necessary procedural guarantees.<sup>[10]</sup>

Under GCIV, state parties must ensure that proper mechanisms are available to review decisions of internment or assigned residence. They must establish a “court or administrative board” for foreign nationals in their own territory<sup>[11]</sup> as well as a “competent body” in occupied territories.<sup>[12]</sup> These bodies should offer “the necessary guarantees of independence and impartiality”.<sup>[13]</sup> In both cases, GCIV provides that decisions of internment or assigned residence must be reviewed as soon as possible once they have been taken, and then periodically during the whole time of the deprivation of liberty. Here too, relevant legal and administrative frameworks are needed to anticipate the composition and competence of the mentioned bodies, and procedures to be followed.

### ***Management of places of internment***

Preparatory measures are necessary to ensure that the management of places of internment reflects the non-punitive nature of internment<sup>[14]</sup> and complies with obligations concerning the humane treatment and welfare of POWs and those interned under the GCIV framework. Administrative services and logistics are needed to ensure that detainees have access to adequate food, clothing, hygiene and medical care.<sup>[15]</sup> They are also required to plan for the organization of labour, ensuring that internees are not assigned dangerous, unhealthy or humiliating work, receive fair wages, undergo regular medical examinations, and benefit from safe working conditions.<sup>[16]</sup> The Detaining Power is further expected to organize internees’ contacts with the outside world, including by establishing systems for correspondence and the distribution of relief shipments.<sup>[17]</sup> It must also designate authorities responsible for receiving and responding to internees’ complaints or requests/petitions, and clarify the relevant procedures.<sup>[18]</sup> All of these functions require a legal, regulatory and administrative framework established in advance, along with adequately trained personnel in sufficient numbers.

Special provisions must also be made for the proper and dignified management of the dead. Administrative services, facilities and equipment are required to support the preparation of internees’ wills, the careful examination of the deceased, the issuance of death certificates, the organization of burial or cremation, and the marking and maintenance of graves.<sup>[19]</sup> GCIII explicitly requires the establishment of a “Graves Registration Service”, whose responsibilities include recording all details related to burials, graves and ashes, including the identity of the deceased, and facilitating exhumations and the return of remains to the home country and families.<sup>[20]</sup>

GCIII and GCIV also provide for a detailed penal and disciplinary system for managing internment, which likewise requires advance planning. This system presupposes the existence of courts, competent authorities and support services to conduct



investigations, issue decisions in individual cases, and implement sentences or disciplinary measures.<sup>[21]</sup> The Detaining Power must ensure that applicable laws and regulations align with the rules of the Conventions, including essential safeguards and guarantees for those subject to penal or disciplinary proceedings.<sup>[22]</sup>

Lastly, state parties must also anticipate the end of internment. While they have an obligation to ensure that POWs are released and repatriated “without delay after the cessation of active hostilities”<sup>[23]</sup> and that individuals interned under the GCIV framework are released “as soon as the reasons which necessitated [the] internment no longer exist”,<sup>[24]</sup> they must also assess the situation of some categories of persons who might be eligible for direct repatriation or accommodation in neutral countries while hostilities are ongoing.<sup>[25]</sup> Among relevant bodies aimed to supervise this process, GCIII explicitly provides that Mixed Medical Commissions must be established.<sup>[26]</sup> While GCIV does not explicitly foresee the same mechanism, the implementation of its provisions concerning the release, repatriation or accommodation of internees in a neutral country supposes that similar administrative bodies are in place.

## ***Accounting for protected persons***

Accounting processes for protected persons who have fallen in the hands of the enemy plays an important part in the Geneva Conventions’ institutional architecture. This includes the obligation for each state party to establish a National Information Bureau (NIB) upon the outbreak of an IAC and in all cases of occupation.<sup>[27]</sup> The NIB is responsible for collecting, centralizing and transmitting information on, in particular, POWs and protected persons under GCIV who are kept in custody for more than two weeks, who are in assigned residence or who are interned.<sup>[28]</sup>

The Geneva Conventions do not provide great details on how the NIB should be organized or how it should operate. State parties must decide in advance whether they prefer creating a separate entity or distribute NIB’s functions among existing administrative services, and how internal communication flows should be organized. They must also provide the NIB with “the necessary accommodation, equipment and staff to ensure its efficient working”.<sup>[29]</sup> Considering that establishing a NIB might be a lengthy process, the ICRC recommends that state parties determine, already in peacetime, the bureau’s structure and working methods, its resources, and the allocation of responsibilities.<sup>[30]</sup> In addition, preparatory measures should address coordination with the ICRC’s Central Tracing Agency (CTA), which is mandated to collect and transmit information on protected persons.<sup>[31]</sup>

The Geneva Conventions further outline provisions for capture and internment cards, enabling POWs and interned persons under GCIV to notify their families and the CTA of their status. Parties to the conflict must facilitate this process by providing the necessary cards in a language understood by the internees, supplying writing materials or electronic devices, and guaranteeing access to an appropriate space for completing the cards.<sup>[32]</sup>

## **Infrastructure and equipment**

In addition to institutional mechanisms, preparatory efforts must also address the physical infrastructures and equipment required to accommodate POWs and other internees, and manage places of internment effectively.<sup>[33]</sup> This means, during peacetime, identifying appropriate spaces and planning the allocation or construction of sufficient facilities. State parties must also ensure that these facilities are not located in areas that could endanger the health or safety of internees,<sup>[34]</sup> or expose them to the risks of ongoing conflict.<sup>[35]</sup> Planning locations and facilities should be based on prior assessments of anticipated numbers of internees, in order to prevent overcrowding, a consideration that becomes especially critical where large-scale detention operations are expected.

Preparatory work should also reflect the non-punitive nature of internment. Places of internment are not prisons.<sup>[36]</sup> They must offer a range of premises dedicated to specific services and activities as required by the Geneva Conventions, such as medical care,<sup>[37]</sup> religious practice,<sup>[38]</sup> intellectual, educational, physical and recreational activities,<sup>[39]</sup> personal hygiene

and laundry,<sup>[40]</sup> or the purchase of foodstuffs and articles of everyday use.<sup>[41]</sup> To meet these obligations, the Detaining Power should consider the social identity of detainees, including their background, gender, disability, age, and health, and ensure that facilities and services are adapted to their specific needs. Dedicated spaces are also required for certain groups, such as separate dormitories for women,<sup>[42]</sup> and, whenever possible, separate accommodation for interned families.<sup>[43]</sup> Children and young persons must have access to appropriate facilities, including schools and playgrounds.<sup>[44]</sup>

The Geneva Conventions also set out detailed requirements regarding the equipment and material that must be provided in places of internment. Detaining Powers are obliged to ensure for instance that POWs and internees under GCIV receive adequate food, bedding and blankets, as well as appropriate clothing, footwear and underwear.<sup>[45]</sup>

States that might conduct operations in the maritime domain must also consider the legal and practical implications of detention at sea. They must develop capacities to hold enemy combatants captured at sea in line with their obligations under GCIII, including the obligation of humane treatment. In addition, they must take the necessary measures to ensure that POWs captured at sea will be transferred to land as quickly as possible.<sup>[46]</sup> This includes the need to ensure that sufficient and adequate means of transportation are available for the purpose of transfers, that areas of disembarkation are identified, and that places of internment on land are available to receive the POWs.

## Training and instructions

In military detention settings, interactions between persons deprived of their liberty and those detaining them is critically important, requiring thorough preparation of troops for all phases of the detention process, from capture to release and repatriation, including through the adoption of regulatory frameworks and instructions. State parties must ensure that military personnel and other authorities are well-versed in their obligations under the Geneva Conventions and, where applicable, Additional Protocol I.<sup>[47]</sup> Equally essential is the training of all support personnel who may interact with internees – such as guards, medics, interpreters – in their obligations under IHL. Training should go beyond legal instruction to include practical exercises and scenario-based rehearsals, so that respect for IHL obligations become second nature, especially in chaotic or high-stress environments.

Training for the point of capture is especially critical, as it must emphasize the safe evacuation of detainees from the battlefield in a manner that guarantees their security, dignity, and well-being. Troops who are unprepared may face serious challenges, such as insufficient knowledge of applicable rules and procedures or a lack of the necessary equipment, all of which can lead to violations of IHL, including ill-treatment. Personnel should be trained to transition from combat to detainee care, with a focus on respectful handling, provision of basic necessities such as food, water, and medical care, and particular sensitivity to the needs of vulnerable groups. Accurate and timely record-keeping must also be practiced as part of this training.

Additionally, all personnel must understand their obligations to facilitate visits by the Protecting Power, if any, or by the ICRC to places of internment, as mandated by Article 126 in GCIII and Article 143 in GCIV.

## Conclusion

The Geneva Conventions lay out a detailed set of obligations that must be respected in situations of IACs. When it comes to detention operations, compliance will depend heavily on the preparatory measures taken before such conflicts arise. Large-scale detention operations, in particular, pose complex logistical and humanitarian challenges that must be anticipated and addressed early on.

Careful planning, the establishment of comprehensive institutional mechanisms, the allocation of sufficient resources, and the training of personnel are what will make the difference between compliance and non-compliance and, ultimately,

between a system that ensures the most basic humane treatment of detainees, and one that does not.

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## References

[1] Third Geneva Convention, Art. 4.

[2] Fourth Geneva Convention, Art. 4(1) and (4).

[3] Third Geneva Convention, Art. 82-88 and 99-108; Fourth Geneva Convention, Art. 71-77; Additional Protocol I, Art. 75.

[4] See S. Hill, “Geneva Convention III Commentary: Implementing POW Convention in Multinational Operations”, *Just Security*, 28 October 2020.

[5] ICRC, *Commentary on the Third Geneva Convention: Convention (III) relative to the Treatment of Prisoners of War*, ICRC, Geneva/Cambridge University Press, Cambridge, 2020 : [IHL Treaties – Geneva Convention \(III\) on Prisoners of War, 1949](#), para. 1519-1523.

[6] ICRC, *Commentary on the Third Geneva Convention*, 2020, para. 1537. This post does not further explore the implications of partnered military operations. This will be done in a future post of this series.

[7] W. Stephens and N. Daluz, “Large-scale combat operations symposium – Detention Operation in LSCOs: A U.S. military perspective”, *Articles of War*, 2 June 2023.

[8] ICRC, *International humanitarian law and the challenges of contemporary armed conflicts: Building a culture of compliance for IHL to protect humanity in today's and future conflicts*, ICRC, 2024, pp. 21-22.

[9] Third Geneva Convention, Art. 5(2). This obligation is reaffirmed and clarified in Art. 45(1) of Additional Protocol I.

[10] See ICRC, *Commentary on the Third Geneva Convention*, 2020, para. 1123-1128

[11] Fourth Geneva Convention, Art. 43(1).

[12] Fourth Geneva Convention, Art. 78(2).

[13] J.S. Pictet (ed.), *Commentary on the Geneva Conventions of 12 August 1949*, Vol. 4: *Geneva Convention relative to the Protection of Civilian Persons in Time of War*, ICRC, Geneva, 1958, p. 260.

[14] ICRC, *International humanitarian law and the challenges of contemporary armed conflicts: Building a culture of compliance for IHL to protect humanity in today's and future conflicts*, ICRC, 2024, p. 21.

[15] Third Geneva Convention, Art. 12-15, 26-27 and 29-30; Fourth Geneva Convention, Art. 83-92.

[16] Third Geneva Convention, Art. 49-57 and 62; Fourth Geneva Convention, Art. 95-96.

- [17] Third Geneva Convention, Art. 71-73; Fourth Geneva Convention, Art. 107-109.
- [18] Third Geneva Convention, Art. 78; Fourth Geneva Convention, Art. 101.
- [19] Third Geneva Convention, Art. 120-121; Fourth Geneva Convention, Art. 129-131.
- [20] Third Geneva Convention, Art. 120(6).
- [21] Third Geneva Convention, Art. 82-108; Fourth Geneva Convention, Art. 117-126.
- [22] Third Geneva Convention, Art. 84, 96, 99 and 102-107; Fourth Geneva Convention, Art. 117-126.
- [23] Third Geneva Convention, Art. 118(1).
- [24] Fourth Geneva Convention, Art. 132(1).
- [25] Third Geneva Convention, Art. 109-110; Fourth Geneva Convention, Art. 132(2).
- [26] Third Geneva Convention, Art. 112-113 and 118-119, and Annex II: Regulations concerning Mixed Medical Commissions.
- [27] Third Geneva Convention, Art. 122; Fourth Geneva Convention, Art. 136. Art. 122 of the Third Geneva Convention imposes the same obligation on neutral States receiving POWs and persons entitled to POW treatment. For further details, see ICRC, “Overview of the legal framework governing National Information Bureaux”, ICRC, April 2022.
- [28] Third Geneva Convention, Art. 122(1); Fourth Geneva Convention, Art. 136(2).
- [29] Third Geneva Convention, Art. 122.
- [30] ICRC, *Commentary on the Third Geneva Convention*, 2020, para. 4710.
- [31] Third Geneva Convention, Art. 123; Fourth Geneva Convention, Art. 140.
- [32] ICRC, *Commentary on the Third Geneva Convention*, 2020, para 3132.
- [33] Ibid., para. 1983.
- [34] Third Geneva Convention, Art. 22; Fourth Geneva Convention, Art. 85(1).
- [35] Third Geneva Convention, Art. 23; Fourth Geneva Convention, Art. 83(1).
- [36] ICRC, *Commentary on the Third Geneva Convention*, 2020, para. 1934. See J.S. Pictet (ed.), *Commentary on the Geneva Conventions of 12 August 1949*, Vol. 4: *Geneva Convention relative to the Protection of Civilian Persons in Time of War*, ICRC, Geneva, 1958, p. 384.
- [37] Third Geneva Convention, Art. 30; Fourth Geneva Convention, Art. 91.
- [38] Third Geneva Convention, Art. 34; Fourth Geneva Convention, Art. 86.
- [39] Third Geneva Convention, Art. 38; Fourth Geneva Convention, Art. 94.

[40] Fourth Geneva Convention, Art. 85(1).

[41] Third Geneva Convention, Art. 28; Fourth Geneva Convention, Art. 87.

[42] Third Geneva Convention, Art. 25(4); Fourth Geneva Convention, Art. 85(4).

[43] Fourth Geneva Convention, Art. 82(2).

[44] Fourth Geneva Convention, Art. 94.

[45] Third Geneva Convention, Art. 25-27; Fourth Geneva Convention, Art. 85, 89, 90.

[46] Third Geneva Convention, Art. 22.

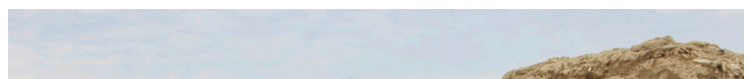
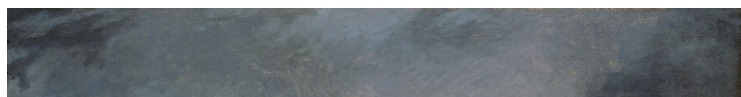
[47] Third Geneva Convention, Art. 127; Fourth Geneva Convention, Art. 144; Additional Protocol I, Art. 83. See ICRC, *International humanitarian law and the challenges of contemporary armed conflicts: Building a culture of compliance for IHL to protect humanity in today's and future conflicts*, ICRC, 2024, p. 22; W. Stephens and N. Daluz, “Large-scale combat operations symposium – Detention Operation in LSCOs: A U.S. military perspective”, *Articles of war*, 2 June 2023.

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