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PRISONER OF WAR STATUS FOR POLISH HOME ARMY (ARMIA KRAJOWA - AK) PERSONNEL IN WORLD WAR II

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DEDICATION

This paper is dedicated to all AK veterans, whose story is virtually unknown in the West.

ABSTRACT

On 3 October 1944, 16,000 Polish Home Army (*Armia Krajowa –AK*) combatants surrendered to the German Army, after a militarily unsuccessful sixty-three day struggle, which saw the Poles attempt to liberate their capital city of Warsaw. Not knowing what to expect from their Nazi captors despite a negotiated surrender agreement, and having neither seen nor heard of the treatment meted out to insurgent, partisan or guerilla forces in other Nazi-German occupied countries, they expected the worst. Their treatment as prisoners of war (PoWs) at the hands of the German captors was unusual at the time, in that the Agreement was for the most part honoured. Through research and interviews with ex-combatants, this paper explains how and why all of this came to pass as well as looks at the many post-war changes to the Geneva Convention Relative to the Treatment of Prisoners of War which came either as a direct or indirect result of the unique circumstances encountered during the Warsaw Uprising and its aftermath.

INTRODUCTION

In the West, the Warsaw Uprising is often confused with the Warsaw Ghetto insurrection in 1943. Less well known is the fact that almost sixty years ago, after a 63-day heroic uprising in the capital city of Warsaw in August and September 1944, freedom fighters/combatants of the Polish Home Army (*Armia Krajowa* - AK) were offered Prisoner of War (PoW) status by the German victors. Whether this motivation came as a result of respect from the Germans for the fighting prowess of the AK, a hope that fair treatment of the Poles at a time when the war on both fronts was realistically seen by most Germans as having already been lost, would serve them well in any future surrender negotiations, or simply as a means to remove one of the many urban warfare cauldrons that the Wehrmacht knew would continue to be a drain on both scarce manpower and resources, is at this point in history still debated.

What is known for a fact is that over 16,000 young men and women, some as young as thirteen years of age, marched or entered into captivity in the days following 3 October 1944 when negotiations led to a cessation of hostilities. The final weeks and days of the Second World War saw their PoW camps liberated by the Allies, the most dramatic and emotional being Stalag VIC at Oberlangen, Germany, where on 12 April 1944, one of the ironies of war saw 1728 female AK combatants liberated by advance elements of General Stanisław Maczek's 1st Polish Armoured Division, part of the 2nd Canadian Corps. The days following the liberation of all the PoW camps are now part of the folklore of the AK survivors.

In retrospect, although more than likely unbeknownst to the enthusiastic young combatants at the time, the heroic uprising was likely doomed from the start owing to high level political intrigue and un-kept promises by powers beyond their influence. On one hand, the Soviet leadership under Stalin openly declared themselves to be the allies of the Western Powers, and publicly advocated the principle of a common, democratic, and anti-Nazi alliance. On the other hand, they had denounced the London-based Polish Government-in-Exile, the accepted authority on Polish matters in the eyes of the western Allies, in favour of persona and institutions appointed by them.[1]

The overall political situation had deteriorated since the severing of relations between the Soviet Union and the Polish Government-in-Exile on 25 April 1943 over the discovery of approximately 4,500 executed Polish Officer PoWs in Katyń Forest. This event is perhaps the only non-German war crime of World War II that has received worldwide attention is the 1940 liquidation of some 14,700 Polish prisoners of war by Soviet authorities. [2] The tragic death of Commander in Chief of the Polish Armed Forces and Prime Minister of the Government-in-Exile, General Władisław Śikorski, on 4 July 1943 only served to exacerbate the worsening political climate. These relations continued to worsen until, on 22 July 1944, with no prior consultation with the other Allies, the Soviets created in Lublin the Polish Committee of National Liberation (PKWN - *Polski Komitet Wyzwolenia Narodowego*) and gave it the powers of a temporary administration.

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[1] Norman Davies, *God's Playground: A History of Poland Volume II* (Oxford: Oxford Press, 1981), p.471.
[2] Alfred de Zayas, *The Wehrmacht War Crimes Bureau 1939-45* (London; Routledge and Keagan Paul, 1977), p.228.

As a consequence, the leaders of the AK were placed in a quandary since, as an arm of the legally constituted Polish Government, and in command of the largest single element of the Resistance Movement, they had every right to expect a share in the political decisions after the liberation.[3] In effect there were two separate Polish governments, both claiming legitimacy and attempting to win the loyalty and support of the Polish people.

The Poles were in the awkward position of being urged by the Western Allies to co-operate with the Soviets, even though the Soviet Union refused to recognize the legitimacy of their existence. Germany, notably, persisted in not recognizing governments-in-exile. [4] The AK choice of either doing nothing and allowing Warsaw to be liberated by the Soviet Red Army and as a consequence fall under post-war Communist rule, or trying to liberate the city from the Germans on their own and be condemned for upsetting the major allies by acting for reasons of private political motivation, was not an easy one. Although in the end, the launch of the Warsaw Uprising caused political problems for the allies, it did not bring with it any widespread external support, since the maintenance of the alliance with the goal of defeating Nazi Germany, was more important to the Western powers than the future of Poland. The post-war fate of Poland was finally sealed in August 1945, when the Protocol announced at the conclusion of the Potsdam Conference included Article 9, dealing specifically with Poland. In this article the United States and the United Kingdom specified that they had established diplomatic relations with the Polish Provisional Government, resulting in the

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[3] Norman Davies, *God's Playground: A History of Poland Volume II* (Oxford: Oxford Press, 1981), p. 472.
[4] Geoffrey Best, *War and Law Since 1945* (Oxford: Clarendon Press, 1994), p.149.

withdrawal of their recognition of the former Polish Government in London, which they claimed no longer existed. [5]

In 1943 however, it was hoped that the Allied victories in Italy would allow increasing rationalization for aircraft links to occupied Poland as well as air dropping of personnel and supplies. [6] The efforts of countless individual Commonwealth (including 25 Canadian airmen who made the ultimate sacrifice), Polish and American allied airmen attempting to drop desperately needed supplies after flights of over 1,000 km, resulted in horrific aircrew losses and regrettably little materiel difference. Airbases in the Soviet Union were not allowed to be used for the recovery of damaged or fuel-less aircraft because of Soviet leader Josef Stalin's desire to see the Polish leadership annihilated in the Uprising. Under pressure from then United States President Roosevelt, the Soviets allowed just one flight of 110 US B-17 (Flying Fortress) bombers to refuel at Poltava on Soviet held territory for a relief supply drop on 18 September 1944, dropping 1,284 containers of arms, ammunition, food and medical supplies.[7] To the desperate defenders of Warsaw, this aid was simply too little, too late. The then Commander-in-Chief of the Polish Armed Forces, General Kazimierz Sosnkowski, stated: “the lack of aid for Warsaw can be translated into a shortage of technical ability, which would advance the argument of gains and losses.” [8]

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[5] Alfred de Zayas, *Nemsis at Potsdam* (London; Routledge and Keagan Paul, 1977), p.237.
[6] Józef Garlinski, *Polska w Drugiej Wojnie Swiatowej* (London: Odnowa, 1982), p.383.
[7] Neil Orpen, *Airlift to Warsaw: The Rising of 1944* (Norman: University of Oklahoma Press, 1984), p.158.
[8] Józef Matecki, ed. *Kazimierz Sosnkowski: Materiały Historyczne* (London: Gryf Publications Inc, 1966),p.201.

The helpless frustration of General Stanisław Sosabowski's 1st Polish Independent Airborne Brigade - whose unit's colours were made in German-occupied Warsaw and smuggled to the Brigade stationed in the United Kingdom - unable to help their countrymen and committed to the ill-fated Operation MARKET GARDEN in Driel in the outskirts of Arnhem in the Netherlands in September 1944 is just one part of the tragic history. The Soviet Red Army waited on the East bank of the Vistula (*Wisła*) River in the Eastern Warsaw suburb of Praga while the German forces defeated the ill-equipped AK and razed the capital in the aftermath of the capitulation. All these factors conspired to doom the spirited young patriots whose only crime was love of their country. What was, however, unique, was the treatment the AK received from their German captors.

This paper draws upon available primary documentation and secondary sources, and numerous interviews with a number of Home Army personnel resident in Canada. Former AK combatants and PoWs gave freely of their time and responded candidly to questions regarding their expectations and received treatment at the hands of their German captors in the aftermath of their capture or surrender. The bulk of currently available material on the Uprising, primarily in Polish, either deals with the military aspect of the Uprising and the heroic resistance of the young combatants, or more recently in post-Communist Poland, the trials of AK combatants as traitors in post-war Communist Poland. Often cited Polish authors include Garliński, Borkiewicz and 'Bór' Komorowski, whose quasi-autobiography "The Secret Army" was originally published in Polish in 1951 as "*Armia Podziemna*". Available material in the English language deals primarily with the legal aspects of international law in the Third Reich and the treatment

of partisans. Seminal works include those by Geoffrey Best, Omer Bartov, Norman Davies and Alfred de Zayas.

The designation and treatment of the 1944 Warsaw Uprising Home Army (AK) combatants as prisoners of war set a precedent for the treatment of combatants in virtually all post-Second World War conflicts. So, why did the Germans accord the AK combatants captured in the 1944 Warsaw Uprising prisoner of war status and what level of treatment did this guarantee?

The geo-strategic position of occupied Poland in 1944 and the organization of the AK were critical factors, influencing both the outbreak and outcome of the Uprising, as well as subsequent legal treatment of the combatants under international law. The applicable Conventions governing the treatment of PoWs, i.e. what legal bases apply, and what treatment the German had afforded the various underground partisan movements it had encountered prior to the AK combatants, dealing with Greece, Yugoslavia and occupied Soviet Union were foreshadowing as to what sort of treatment the combatants might expect upon capture or surrender. The conduct of operations during the Warsaw Uprising and the subsequent parlayed surrender, followed by the AK combatants' expectations of treatment at the hands of the German captors and the treatment of PoWs by the captors and the extent to which the Germans honoured the parlayed agreement were precedent setting. As a result of the Warsaw Uprising changes were made to the Geneva Convention on the Handling of PoWs that were to influence the future categorization and handling of prisoners of war.

BACKGROUND
POLAND IN THE SECOND WAR/ CREATION OF THE HOME ARMY (AK)

The Nazi German invasion of Poland on 1 September 1939, quickly followed by the 17 September Soviet Red Army 'invasion' of Eastern Poland, led to formation of a variety of paramilitary underground armies, all with the ultimate aim of the defeat of the Nazi German aggressor and freedom and independence for the Republic of Poland. By no stretch of rational imagination can civilians in occupied territories be expected to observe towards their temporary masters the same love, honour, and obedience as they are expected to observe towards their normal national rulers. [9]After much infighting and the Nazi German invasion of the Soviet Union (Operation BARBAROSSA) on 22 June 1941, the Polish Government in exile in London finally unified all underground forces in February 1942. At this time, all competing paramilitary forces resident in the territory of pre-war Poland, were to be united under one Headquarters and to be known as the Armia Krajowa (AK - Home Army). Although an admirable goal, all units were never fully integrated owing to a web of political differences.

Polish distrust of the Soviet Union, in particular after the dramatic change in relations following the 1943 German discovery in Katyń forest of the remains of over 4,000 Polish officers believed murdered by the NKVD (*Narodny Komisariat Vnutrennych Del - People's Commissariat for Internal Affairs*), intensified. Though at the time the Soviet Union blamed the Germans for this crime, it has since proven to have been committed by the NKVD. Only the most naïve of Poles could look to the Soviet

Union for help from the Soviet Union in liberation from the Germans. After the capture by the SS of the Commander of the AK, General Stefan 'Grot' Rowecki on 30 June 1943, General Tadeusz 'Bór' Komorowski was named to replace him. The loss of Rowecki at this time has been described as the greatest tragedy to befall the Home Army since its creation. His three-year command of the AK gave him great authority not only amongst the AK but also throughout the whole country.[10] In light of the retreating German and the advancing Soviet forces 'Bór' Komorowski's goal was to ensure that Poles liberated the capital of their country so that a free post-war Poland would not be seen as owing to the Russians. Although the Poles asked for help from the Western Allies and would receive some, the Poles ultimately would have to lead the liberation.

AK STRUCTURE

The Commander of the AK was responsible to General Kazimierz Sosnkowski, the Head of the Polish Armed Forces, himself subordinated to the Polish Government-in-Exile in London. The communications problems and delays caused by the distance between London and German-occupied Warsaw, as well as the need to ensure secrecy only added to the many problems experienced in a 'command from a distance' relationship. Weaponry for the AK consisted of what could be bought, stolen, captured, manufactured, smuggled and or airdropped to the combatants. In the end, this materiel did not amount to adequate weaponry in terms of numbers or caliber necessary to defeat the Germans. The Headquarters of the AK (*Komenda Główna Armia Krajowa - KG AK*),

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[9] Best, *War and Law Since 1945*, p.119.
[10] Andrzej Krzysztof Kunert, *Generał Tadeusz Bór-Komorowski* (Warszawa: Rytm, 2000), p.27.

located in Warsaw was organized into seven directorates (*Oddział*), numbered sequentially:

1. Organizations; which looked after all personnel matters and included: personnel services, Chaplaincy, Women's Military Service (*Wojskowa Służba Kobiet - WSK*), and Legal Branch;
2. Information/Intelligence; which included Counter-intelligence and Offensive intelligence;
3. Operations and Training; which included all aspects of operations and coordination;
4. Quartermaster; which included all aspects of provisioning and underground weapons production;
5. Communications; which covered all technical aspects of communications as well as the courier service;
6. Information and Propaganda Bureau; and
7. Finance and Control of all disbursements and pay matters.[11]

In early 1944, the KG AK was responsible for four areas or regions (*obszar*) and eight independent districts (*samodzielni okręg*). Warsaw was headquarters of one of the four regions and the city of Warsaw, further sub-divided into right and left bank commands (split by the Vistula river – *Wisła*) was one of the independent districts. In 1940, the city was further divided into eight sectors (*obwód*) (I Śródmieśce/Stare Miasto/Powisle, II Żolibórz, III Wola, IV Ochota, V Mokotów, VI Praga, VII Warsaw District (*powiat warszawski*) and VIII the independent region of Okęcie (*samodzielny rejon Okęcie*)) [12]

[11] Wielka Illustrowana Encyklopedia Powstania Warszawskiego (Tom 3, 4). 2000.
[12] Adam Borkiewicz, *Powstanie Warszawskie 1944: Zarys Dzialan Natury Wojskowej* (Warszawa: Instytut Wydawniczy Pax ,1969), p.25.

In order to maintain the secrecy essential in an underground organization, the basic building block of the AK was the platoon, full manning considered to be somewhere between 35 and 50 personnel and cadre (*szkieletowi*) manning considered to be between 16 and 25 personnel. In early 1944, the AK consisted of 6,287 fully mannedplatoons as well as 2,613 cadre platoons. All AK personnel used a nom-de-guerre (*pseudonym or kryptonym* in correspondence, written, verbal or radio to avoid compromise in the event of capture.[13] The size and complexity of the AK and its ability to control units throughout Poland was on a scale rivaled only by Tito's partisans in Yugoslavia. The organization of the Warsaw-based AK units was unmatched in any other German-occupied capital city. In fact, a top-secret SS unit was formed in order to study these movements in detail, and specialists from this unit were sent to observe the Warsaw Rising in 1944, apparently in conjunction with the Abwehr and the Warsaw Gestapo. The Polish Home Army was considered a revolutionary movement par excellence. [14]

In Summer 1944, the AK, spread across Poland, consisted of approximately 380,000 personnel, of which some 10,800 were officers, 7,500 senior non-commissioned officers and 87,900 junior non-commissioned officers. The majority of AK officers were recruited from the pre-1939 Polish Army as well as from the various secret underground leadership schools. There were also Polish officers who were part of the *Cichociemni* (Silent and Unseen saboteurs), trained in the United Kingdom, and parachuted into Poland. By 1943, the AK had begun forming the platoons into companies and battalions,

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[13] Wielka Internetowa Encyklopedia Multimedialna. *Armia Krajowa (1942-1945)* 1 Jan 2001. 9 Mar 2002.
[14] Perry Biddiscombe, *Werwolf: History of National Socialist Guerilla Movement* (Toronto: University of Toronto Press, 1998), p.13.

the most famous being: Zoska, Parasol, Miotla and Czata. Beginning in 1944 the formation of regiments, brigades and divisions was begun. The larger formations were created for the purpose of facilitating control, and were never designed for, nor able, to train or operate as formations. Since the Warsaw Uprising was to draw upon the longstanding organization of the AK to provide its combatants, it was far from beeing spontaneous.

On 20 September 1944, the AK units fighting in Warsaw were formed into regular units of the Polish army as the Warsaw Corps of the AK (*Warszawski Korpus Armii Krajowej*) under the command of Brigadier General Antoni 'Monter' Chruściel. The Corps consisted of three infantry divisions: the 8th , named after Romuald Traugutt, the 10th , named after Maciej Rataj and the 28th , named after Tadeusz Okrzei. [15] [16]

The AK personnel available in Warsaw at the start of the Uprising amounted to approximately 38,000 personnel (including 4,000 women). They were lightly armed and without great stockpiles of ammunition. [17] Almost 15 % of the units' personnel consisted of women between the ages of 16 and 25, fulfilling the roles of nurses and signalers/messengers as well as combatants.[18] During the Warsaw Uprising, these young people, known as the *Szare Szeregi* (grey ranks), were invaluable, becoming full fledged members of the AK and taking on the duties as guides through the network of

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[15] Kunert, *General Tadeusz Bór-Komorowski* , p.186.
[16] Stanislaw Kopf, *63 Dni* (Warszawa: Bellona, 1994), p.611.
[17] Gunther Deschner, *Warsaw Uprising* (London: Ballantine Books, 1972), p.45.
[18] Stanisława Lewandowska and Bernd Martin, eds. *Powstanie Warszawskie 1944* (Warszawa: Wydawnictwo Polsko-Niemeckie, 1999) p.253.

underground passages and paths through the ruins, guards at key crossing points, and messengers and first aid-givers for the wounded, often in open spaces under enemy fire.[19]

The Polish fighting spirit extended to the Polish Boy Scouts (*Harcerstwo*) who, despite their young age, were also invaluable as messengers, running an effective mail service to the barricades throughout the Uprising.[20] Only approximately 10 to 12 % of the AK Combatants were armed, since having a pistol, which in an urban struggle with reinforced buildings and fortresses were rendered meaningless, could not be considered as effectively equipped.[21] Despite, or as a result of the poor equipping of the combatants, in order to make sure every available round of ammunition was well spent, a popular slogan throughout the rising was *Każdy pocisk – jeden Nemiec* (every bullet- one German). Given their logistical shortages, in particular with respect to weapons and ammunition, the slogan was not meant to be idle propaganda, but a daily reminder to the young insurgents to ration their scarce ammunition. Logistical problems were to prove to be the key weakness of the Uprising, the inability to hold out or to sustain prolonged operations.

THE LAW GOVERNING PoW STATUS AND TREATMENT

Although not applied with any standard, PoW treatment in 1944 would have been covered under both the 1907 Hague Convention IV and the 1929 Convention relative to

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[19] Danuta Sujkowska-Francka and Zofia Wratna-Kolberg, "Today's Grandmothers – Wartime Teens." *Polish Combatants Association in Canada - Quarterly* Aug. 1998 p.5
[20] Garliński, *Polska w Drugiej Wojnie Swiatowej,* p.293.
[21] Krzysztof Komorowski ed., *Armia Krajowa* (Warszawa: Rytm, 2001), p.305.

the Treatment of Prisoners of War. These documents set out the criteria needed for a combatant to be classified as a legitimate combatant to include the wearing of a uniform, being under command and fighting as part of a formed unit. The Germans, however, considered partisans as gangsters and, therefore, subject to summary execution. Germany considered that the Geneva Convention was not applicable in the early stages of the war since Poland was no longer regarded as a legitimate nation, but simply as a passageway to Germany's eastern empire. [22]

Treatment to be afforded the AK combatants was covered by the Hague Convention IV (18 October 1907) Convention Respecting the Laws and Customs of War on Land, in particular Article 1 of Chapter 1 defining the Qualifications of Belligerents. [23] The military command structure of the AK, with General 'Bór' Komorowski as the Commander, and subordinate commanders throughout the entire chain of command met this criterion. The wearing of a Polish eagle hat badge, Polish national colours (white above red) on both headwear and distinct armbands stamped with the Polish eagle, as well as marking all captured vehicles as Polish therefore met this criterion. Arms were carried openly from the start of the Uprising on 1 August until the final surrender on 3 October. German prisoners were treated humanely. Trials were held in the cases of those believed to have perpetrated serious crimes, in particular members of the SS, the Kamiński Brigade, and Dirlewanger's Brigade and where possible the Germans were notified of the trials being held.

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[22] Biddiscombe, *Werwolf: History of National Socialist Guerilla Movement*, p.207.
[23] *Hague Convention IV (18 October 1907) Convention Respecting the Laws and Customs of War on Land*: Article 1.

Since both the Poles and the Western Allies considered the AK to be part of the Polish Armed Forces, instructions from AK hierarchy were issued to Department IV (Quartermaster) of the AK on 25 July 1944, and were quite explicit as to what identification in the form of insignia that each AK combatant was to wear. Owing to shortages of proper uniforms, soldiers would go into the field wearing as a minimum the symbol of the Uprising:

a) a white-red armband 10 cm wide, worn on the right upper arm, with the letters WP (*Wojsko Polskie*) on the white upper part of the armband;
b) either a small Polish eagle symbol on headwear, or in its place a small red and white flag; and
c) a symbol of rank in accordance with the regulations of the Polish army worn higher than the armband as well as on headwear. [24]

Treatment to be afforded to the AK combatants was further amplified in The Convention relative to the Treatment of Prisoners of War (27 July 1929), which specified in Article 1 paragraph (1) that the Convention applied without prejudice to all persons referred to in article 1 of the Regulations annexed to the Hague Convention (IV) of 18 October 1907, concerning the Laws and Customs of War on Land, who are captured by the enemy.[25] Both the President of the German Reich and the President of the Republic of Poland ratified the 1929 Convention at the signing.

Important as well, in the treatment to be afforded to the AK combatants, Articles 3 and 4 of the Convention relative to the Treatment of Prisoners of War (27 July 1929)

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[24] Piotr Matusak, ed. *Powstanie Warszawskie 1944: Wybor Dokumentow Tom 1* (Warszawa: Egros, 1997), p.97.

dealt with the issue of prisoner gender, more specifically in Article 3 which stated that women shall be treated with all consideration due to their sex. [26] The surrender of over 3,000 women combatants was to be a first for the German forces and bring with it a number of issues not specifically covered in previous Conventions.

GERMAN TREATMENT OF PARTISANS IN OTHER THEATRES

The Second World War presented new challenges in the conduct of modern warfare. Conventional soldiers in the eighteenth century recognized each other easily and neither their code of manly conduct nor their fighting style made disguise imaginable. If no article of what appeared to be a uniform hung on them, they could only be (to the regular soldier's mind) revolting peasants or bands of brigands. [27]

Up to the time of the Warsaw Uprising, the German military had already developed a policy of sorts with regards to enemy combatants in occupied territories. According to the 1907 Hague Convention, territory is considered occupied when it is actually placed under authority of the hostile army. To this end, the occupation only extends to the territory where such authority has been established and can be exercised and that during the period of occupation, the occupier is responsible for the management of public order and civil life in the territory under its control. [28] This policy, more often

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[25] Convention Relative to the Treatment of Prisoners of War (27 July 1929), Article 1.
[26] *Ibid.*, Article 3.
[27] Geoffrey Best, *Humanity in Warfare* (London: Weidenfeld and Nicolson, 1980), p.118.
[28] Eyal Benvenisti,*The International Law of Occupation* (Princeton: Princeton University Press, 1993), p.3.

than not vague and loosely implemented, resulted over time in a hardened attitude towards the treatment of partisans and/or guerillas. Fortunately, for the most part, the Wehrmacht tended to ignore the infamous 18 October 1942 'Commando Order', issued after the disastrous Canadian Dieppe raid on 19 August 1942, which stated that all sabotage parties, whether or not they were in uniform, whether armed or unarmed, in battle or in flight, were to be slaughtered to the last man. [29] With some well-known exceptions, German behaviour in the west was within international law. In the east the rules were jettisoned completely. Nazi racial concepts, which had been reflected in the literature of the new international (sic non-German) lawyers, made it possible to think of the war in the east as a phenomenon so different that the rules did not apply there. [30]

The 6 June 1941 Commissar Order (*Der Kommissarbefehl vom 6. Juni 1941*) [31] the Keitel Order Concerning Ruthless Suppression of any Resistance in Occupied USSR and the Führer decree of 13 May 1941 on the Conduct of Troops during Operation BARBAROSSA were all applied on the Eastern Front, for which both Keitel and Jodl were tried and hung at the 1946 Nuremburg trials. Guerillas were to be killed ruthlessly by troops in battle and reprisals of 50 to 100 Communists for the death of each German soldier were to be exacted. Reprisal was a very important term of legal art, meaning an act illegal in itself but that was permissible in reasonable proportion and with proper

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[29] Kenneth Macksey, *The Partisans of Europe in World War II* (London: Hart-Davis, MacGibbon Ltd, 1975), p.87.
[30] *Detlev Vagts,* "International Law in the Third Reich." *American Journal of International Law Volume 84, No.3, July 1990, p.696.*
[31] Stiftung Haus der Geschichte der Bundesrepublik Deutschland. *Der Kommissarsbefehl vom 6. Juni 1941.* United Nations War Crimes Commission. Keitel Order Concerning Ruthless Suppression of any Resistance in Occupied USSR.

safeguards as a response to illegal acts already committed by the enemy and as a deterrent to their recurrence. [32]

The threat of undermining military discipline by allowing soldiers at the lowest levels to kill prisoners with impunity was not apparently taken into account at the time of the order. Resistance and argument over the order was widespread amongst the Wehrmacht leadership, based more on the fear of reprisals and the loss of valuable information that might be gained from interrogation. Although the Wehrmacht tended to ignore the order, the SS record was to be somewhat different since the SS by their excesses blotted the conventional battlefield with the brutalities of anti-guerilla warfare.[33]

In retrospect, the German treatment of partisans in occupied Yugoslavia, Greece, Italy and the Soviet Union, prior to the Warsaw Uprising, certainly provided plenty of indicators and hints as to what kind of treatment the members of the AK might expect upon surrender, regardless of any formal surrender agreement. These situations were precedent setting in that resistance-fighters, guerrillas, hostile populations and local heroes made difficulties for the law of war, which it never found ways to fully resolve. [34] In retrospect, World War II was the cause for change to the Geneva Convention since the scale on which hostages had sometimes been killed and collective punishments inflicted

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United Nations War Crimes Commission. *Führer Decree, 13 May 1941, on regulation of Conduct of Troops in District "Barbarossa" and Handling of Opposition*.
[32] Best, *War and Law Since 1945*, p.192.
[33] United Nations War Crimes Commission. *Führer Decree, 13 May 1941, on regulation of Conduct of Troops in District "Barbarossa" and Handling of Opposition*, p.88.
[34] Best, *War and Law Since 1945*, p.265.

was judged to have been excessive, intimidating, and terroristic; some would have added, quasi-genocidal. [35]

YUGOSLAVIA

During war crimes trials following the Second World War, Generaloberst Dr Lothar Rendulić, Commander of the 2nd Panzer Army (14 August 1943 to 24 June 1944) and the senior Commander of all German and Croatian soldiers based in occupied-Croatia, described the partisan problem as having an important international law issue. He considered that guerillas had no ties to international regulations governing the conduct of warfare and did not conform to the four demands of the Hague Convention since they wore neither uniforms nor military designation that could be recognized from a distance and did not carry their weapons in the open. Further, they did not pay attention to the rules and customs of warfare. The partisans were regarded as pirates, who were conducting an illegal war and were therefore not covered by international agreements on the conduct of warfare. [36]

In spite of what the Germans may have considered unfair treatment towards German prisoners, who were routinely shot by their partisan captors, they were ordered to treat captured partisans as prisoners of war and were to be brought to rear areas. This order differed from that employed in the Soviet Union. Since there were often no rear

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[35] *Ibid*., p.312.
[36] Otto Kumm, *Prinz Eugen : The History of the 7 SS Mountain Division "Prinz Eugen"* (Winnipeg: J.J. Fedorowicz Publishing Inc., 1995), p.268.

areas, the responsibility for them fell to combat troops. The logistics of such an undertaking did not make the taking of prisoners an easy task.[37]

SS Brigadeführer and General of the Waffen SS Otto Kumm, the last Commander of the 7th SS Mountain Division "Prinz Eugen", a unit formed from ethnic Germans primarily from Rumania, and employed almost exclusively in Yugoslavia until the last days of the war, described the kinds of situations he routinely encountered where the fierceness was escalated by the combat methods employed by the partisans. They (partisans) could not always be recognized as soldiers, conscripted women and operated in contrast to the accepted rules of war at the time. In spite of this difficulty, the division (*7th SS Mountain Division "Prinz Eugen"*) was ordered to send all prisoners to the proper assembly points. [38]

As in any theatre of war, friction exists between the occupier and the occupied. To cover for reaction to this so-called friction, there was an OKW (*Oberkommando der Wehrmacht*) directive covering occupied territories, signed by Field Marshal Keitel and dated 16 September 1941, proclaiming that for every German soldier murdered, initially 10, then 20, later 50 and finally 100 'hostages' would be shot. The order was issued in reprisal to murders and was not to be applied to PoWs. After the issuance of the order, the shooting of innocent members of the population increased and a large number of

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[37] *Ibid.*, p.267.
[38] *Ibid.*, p.271.

reprisals were carried out on a basis of 100 to 1.[39] This increase despite the fact that the 1929 Convention relative to the Treatment of Prisoners of War specifically stated in Article 2 that Prisoners of War are in the power of the hostile Government, but not of the individuals or formation which captured them and that they shall at all times be treated and protected, particularly against acts of violence, from insults and from public curiosity. Most specifically Measures of reprisal against them are forbidden. [40] Although prisoners of war were covered, civilians were not at this time. The directive served to strengthen the resolve of the partisans rather than dissuade them from attacking German soldiers. A reprisal is a measured, purposeful, unlawful act in response to an unlawful act of the enemy's; illegal though the reprisal may be, its justification is that nothing less will serve to stop the other in his lawless tracks. The purpose of reprisals is supposed to be simply deterrent and admonitory. [41]

GREECE

In Greece, similar to the situation in Yugoslavia, the Germans believed that the local guerillas should not be regarded as soldiers, rather considering them as a group of civilians who had taken up arms and therefore unlawful combatants. According to the Germans, most of the *Andartes* fell short of the Hague regulations where insurgents covered by the rules of war should wear a clearly recognizable uniform. [42] Justification

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[39] United Nations War Crimes Commission: *Law reports of Trials of War Criminals. Volume VIII, Case No.47*
[40] Convention Relative to the Treatment of Prisoners of War (27 July 1929), Article 2.
[41] Best, *War and Law Since 1945*, p.311.
[42] Mark Mazower, *Inside Hitler's Greece: The Experience of Occupation* (New Haven: Yale University Press, 1993), p.127.

for this treatment of Greek partisans was considered appropriate since the enemy had thrown into bandit warfare fanatic, Communist-trained fighters who would not stop at any act of violence and therefore had nothing to do with the decisions of the Geneva Conventions. [43]

The psychological preparation of the German soldier for the type and kinds of duties that he would be expected to carry out in occupied territories was very carefully designed, with later attempted justification based on the premise that the German soldier was warned that he would have justice on his side since the *BANDITEN* were not members of an oppressed national group fighting for their freedom, but criminals and gangsters who refused to recognize the legitimate authority in their country. For many soldiers, therefore, the fight against guerillas came to be seen as a policing action rather than as war. [44] The Greek partisan, in contrast to the AK combatant, was not, however, identifiable as a combatant and could not expect to be treated in accordance with the Geneva Conventions. He responded to the Greek monarchy's call to a levée en masse and was not part of what the Geneva Convention would recognize as a legitimately organized army .

ITALY

The situation in regard to the handling of Italian partisans in German-occupied Italy after 1943 was spelled out by the overall Commander of German Forces in Italy,

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[43] *Ibid.*, p.153.
[44] *Ibid.*, p.160.

Field-Marshal Albert Kesselring. In 1947, he went on trial in front of a British Military Court at Venice, Italy for his involvement with the killing as a reprisal of some 335 Italian nationals in the Adreatine Caves, as well as inciting and commanding forces under his command to kill Italian civilians as reprisals in consequence of which a number of Italian civilians were killed. [45] The second charge had to do with the New Regulations for Partisan Warfare, which he issued on 17 June 1944. This order stated that he would protect any commander who exceeded the usual restraint in the severity of the means that he adopted whilst fighting partisans, further stating that a mistake in the choice of the means to achieve an objective was better than failing to act. His goal was clear; partisans were to be destroyed. [46] In the Prosecutor's findings, this order was found to be contrary to the laws and usages of war and was an incitement to the troops under his command to commit excesses. He was sentenced to death by shooting, a sentence that was later commuted to life imprisonment. [47]

SOVIET UNION

On the 'Eastern front', the brutal manner in which both the Germans and the Russians conducted their operations, their attitudes towards PoWs and the depth of hatred stemming from their differing ideologies can together perhaps explain the ferocity of the campaign and the disregard for many of the conventions governing the laws of war, since the Soviet Union was never invited to sign the Geneva Convention. The Nazi German

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[45] United Nations War Crimes Commission. *Law reports of Trials of War Criminals. Volume VIII, Case No.44*. p.1.
[46] *Ibid.*, p.3.
[47] *Ibid.*, p.4/5.

mistreatment or neglect of large numbers of Soviet troops captured in the early stages of the war and subsequently worked and/or starved to death attest to the hatred. This brutality was a result of the social influence of Nazism and the declared war against the sub-humans of the East. [48] Handling of the partisan movement, which grew substantially in size after the initial German occupation phase was over was to fall under the infamous Keitel OKW directive of 16 September 1941.

The nature of the actions in which many German units were involved in regard to anti-partisan warfare, meant that prisoners taken would almost certainly be executed. The highly ideological context in which the war was being fought often made it extremely difficult to control the soldiers. [49] The same would likely apply to any and all found either aiding or harbouring partisans. The massacre of the populace had begun, accelerated by Field Marshal Keitel of the OKW when he signed the Reprisal Order. The executions were meant to have a deterrent effect. [50] The High Command of the German 17th Army reported on 16 January 1942 that their taking reprisals would probably have no effect on Soviet political leaders; reprisals have a purpose only when they are openly announced. They would then provide proof of the defamatory allegations of Russian political leaders and harden the Russian will to fight. They would ruin, through such reprisals, very important propaganda possibilities and badly blunder by not taking advantage of the disintegration of the Russian Army. [51]

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[48] Omer Bartov, *Hitler's Army: Soldiers, Nazis, and War in the Third Reich* (Oxford: Oxford University Press, 1991) p.62.
[49] *Ibid.,* p.68.
[50] Macksey, *The Partisans of Europe in World War II* , p.66.
[51] de Zayas, *The Wehrmacht War Crimes Bureau 1939-45*, p.108

CHIEF OF ANTI-PARTISAN UNITS

December 1942 saw the appointment of Obergruppenführer Erich von dem Bach-Zelewski as chief of anti-partisan units (*Bändenkampf*). A professional soldier from a Junker family, he had served in World War I, as a member of the Freikorps, and in the Reichswehr. He was highly regarded by Hitler for his improvisational skills. In his new role he published 'OKW Regulations for the Fighting Bands'. His regulations, consistent with his work in the occupied Baltic States, prescribed that all bandits in enemy uniform or in civilian clothes who were captured in combat or surrender in combat were to be treated as prisoners of war. Bandits in German uniform or in uniform of an allied army were to be shot after careful interrogation. The administration was to see to it through just treatment, planned and energetic government and that the population is brought into the right relation to us. [52]

Among the assumptions of the German occupation policy was to answer terror with terror. In a policing action, guerillas were regarded as criminal or bandits. Although explaining the difference between AK combatants and *Andartes* or partisans to the rank and file of the German armed forces would be a challenge, the appointment of General von dem Bach-Zelewski in the early days of the Uprising as overall commander of German forces in Warsaw would provide a somewhat 'enlightened' anti-partisan theorist

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[52] Macksey, *The Partisans of Eu*

and practitioner. It was to his credit that after 9 August 1944, he courageously countermanded SS Chief Himmler's order to execute prisoners. [53]

Given the increasing severity with which the Germans treated captured partisans, control of his forces in the following of his orders in regards to the taking and treatment of prisoners was to prove a constant challenge. For the AK combatants, confusion or disregard by their German captors over their treatment would span the spectrum from immediate execution to freedom. Early in the Uprising, the confusion amongst the rank and file of the German forces can be seen where one German section, after a fierce firefight, took nine AK combatants prisoner, among them two women. The prisoners were dressed in civilian clothing and wearing red and white armbands. Since the German soldiers did not know what to do with them, they let them go. [54] Although this case was more than likely the exception rather than the norm, it would be several weeks into the Uprising before the German handling of surrendered AK was standardized to some degree since the status of the occupied had nothing to do with international and conventional military practice, but was based on Nazi biological, political and racial criteria. [55]

[53] *Ibid.*, p.222.
[54] Lewandowska and Martin, eds. *Powstanie Warszawskie 1944,* p.262.
[55] Bartov, *Hitler's Army: Soldiers, Nazis, and War in the Third Reich,* p.64.

The Polish strategic plan was to launch an insurrection when the German occupying forces were on the point of collapse and there was a chance of obtaining assistance from the West. Polish Government-in-Exile authorities in London instructed then AK Commander General 'Bór' Komorowski on 27 October 1943 that in the event Polish-Soviet relations were not restored, the AK should conduct sabotage-diversionary operations against the Germans (Operation TEMPEST – *Burza*) but remain under cover from the Soviets in order to avoid repression from them. This advice from London was legalistic and impossible to implement; the AK was told, in effect, to attack the Germans but to retreat from the Russians. [56]

After the June 1944 invasion of the continent, the war entered a new decisive phase. Amongst the Germans commanders, none now truly believed in victory. [57] This change was, as it late transpired, to auger well for the AK combatants taken prisoner after the final capitulation of Warsaw in October 1944. The combatants had been waiting for the right opportunity to launch the Uprising. When the Soviet Army reached the eastern outskirts of Warsaw and entered the suburb of Praga, the final stages of Operation TEMPEST were implemented. The Poles mistakenly assumed that military assistance from both Western Allies and the Soviet Union would be forthcoming.

The Poles had a PoW policy, which was communicated to lower subordinate formations. Regardless of the future behaviour of the Germans towards the AK combatants, the Polish hierarchy were determined that the AK would act as a professional

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[56] Richard C. Lukas, *The Forgotten Holocaust* (Lexington: University Press of Kentucky, 1986) p.182.

military force. The Polish Operation Order (*Rozkaz*) dated 25 July 1944 and signed by the AK Commander of the Warsaw Military District, Colonel Antoni 'Monter' Chruściel, made specific reference to who from the German forces would be treated as prisoners of war by the AK.

The last paragraph of Part II of the Operation Order stated with regards to captured German personnel: To be considered as prisoners of war were the following:[58]

a) all in uniform (military, railroad, police, security police SD (*Sicherheitsdienst*));
b) all Reichsdeutsch in uniform; and
c) all taking part in the battle against the AK.

The actual start time, H-Hour (*Godzina W-Wybuch*), of 1700 hours was set in an Operation Order issued on 31 July 1944 signed by Colonel Antoni 'X' Chruściel and hand-delivered to all units.[59] Chruściel's direction was received the same day from General 'Bór' Komorowski who gave him the following order: Tomorrow at 1700 hours exactly, you will put Operation TEMPEST (*Burza*) into effect in Warsaw.

> "*Jutro puntualnie o godzinie 17.00 rozpocznie pan operację <Burza> w Warszawie*." [60]

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[57] Józef Garliński, *Polska w Drugiej Wojnie Swiatowej* (London: Odnowa, 1982) p.379.
[58] Piotr Matusak, ed. *Powstanie Warszawskie 1944,* p.95.
[59] *Ibid.*, p.218.
[60] Lewandowska and Martin, eds. *Powstanie Warszawskie 1944,* p.90.

As it turned out, the Warsaw Uprising broke out contrary to the plan, prior to 1700 hours (Polish time, one hour later than German time) on 1 August 1944. The premature and sporadic activity, which preceded the planned commencement hour, can most likely be blamed on poor or ineffective communications within the AK. Violence erupted throughout the Żolibórz district at 1400 hours, with similar activity occurring in the districts of Wola and Mokotów before 1700 hours.[61] Unfortunately, the original timing planned by General 'Bór' Komorowski to take advantage of the maximum number of people on the streets of Warsaw in order to hide the combatant movements from the German occupiers, was not met. As a result of the 8 p.m. German imposed curfew, some of the messengers, sent out on the night of 31 July, were unable to deliver the exact timing for the start of the insurrection. The premature launch was unfortunately to catch many of the AK away from their weapons and places of duty, an effect that was to cost the AK in the days that followed 1 August 1944.

In a interview conducted by John Ward of the London Times in Warsaw on 12 September 1944, General 'Bór' Komorowski explained his decision for the start date of the Uprising: "If we had not taken up arms on or about the 1st August we should never have been able to fight at all because the Germans were beginning to seize our men for digging trenches and for transference far from Polish soil." [62] The Poles could not afford to lose precious manpower resources from the ranks of the AK.

GERMAN FORCES DISPOSITION

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[61] Deschner, *Warsaw Uprising*, p.30.

In Warsaw itself, the German military forces under command of the 9th Army (AOK- ArmeeOberKommando) were supposed to have a total garrison of approximately 40,000 soldiers available in the event of any emergency. At the outbreak of the Warsaw Uprising, approximately 13,000 personnel were initially available, numerous units having being siphoned off to the Eastern front in July 1944. What remained was a mixed assortment of every conceivable rank and regiment, including German and non-German troops, well and poorly equipped, experienced and inexperienced. [63]

Although a 26 July 1944 9th Army (AOK) War Diary entry cryptically refers to the awaited attack on Warsaw, [64] Himmler himself had never planned fro dealing with an uprising in Warsaw and for that very reason he had almost all the effective fighting units drained off from the city during July to shore up the Eastern front. [65] The task of crushing the uprising completely was assigned to SS-Obergruppenführer von dem Bach-Zelewski, who was promoted to the rank of General of the Waffen-SS, a military rank than a police rank, on 1 July 1944. [66] The German hierarchy quickly realized that the Warsaw Uprising would require more forces than they had at their disposal. [67] Given the lack of available units on the outbreak of the Uprising, von dem Bach-Zelewski quickly assembled any troops nearby. Among the units assembled to augment the German forces were:

> Police units from Poznań (German: Posen) under the command of SS-Gruppenführer Heinz Reinefarth (approximately 2,700 men);

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[62] Kunert, *General Tadeusz Bór-Komorowski* , p.181.
[63] Deschner, *Warsaw Uprising*, p.45.
[64] Piotr Matusak, ed. *Powstanie Warszawskie 1944,* p.218.
[65] Deschner, *Warsaw Uprising*, p.58.
[66] Romuald Śreniawy-Szypiowski, ed. *Powstanie Warszawskie 1 Sierpnia – 2 Pazdziernika 1944: Służby w Walce* (Warszawa: Wydawnictwo Naukowe PWN, 1994), p.238.
[67] Lewandowska and Martin, eds. *Powstanie Warszawskie 1944,* p.207.

SS-und Polizeiregiment Dirlewanger under command of General der Polizei (SS Oberführer) Oskar Dirlewanger (approximately 3,400 men, 1,900 of whom were from an SS prison Camp at Matzlau near Gdansk (German: Danzig));

SS-Sturmbrigade RONA (*Russkaya Osvoboditelnaya Narodnaya Armia* - Russian National Liberation Army) under the command of SS-Brigadeführer Mieczysław Kamiński (approximately 1,700 men);

Two Azerbaijani Battalions (approximately 700 men);

608 Polizei-Sicherungsregiment (Police Security Regiment) from various units in the 9th Army under the command of Oberst Schmidt (approximately 600 men);

Part of SS-Fallschirm-Panzerdivision 'Hermann Goering' (a depleted armoured formation);

The 4th East Prussian Grenadier Regiment from the XXXIX Corps; and

Various other collected elements from the 9th Army.

By 5 August 1944, all these units provided the Germans between 11,000 to 12,000 effective troops. Command and control was complicated by the fact that only about half of them spoke German, most of the ethnic groups of the Soviet Union being represented, including Ukrainians. Age-old Polish-Ukrainian animosities were to be unleashed by both sides during the uprising. Unfortunately for the former inhabitants of the Soviet Union, they were all lumped together as Ukrainians, often with fatal consequences. Soldiers from 'the East' were in an unenviable position: they were hated by the Poles, and their reliability and fighting ability were not trusted by the Germans. They further knew that they were on the losing side of the war; they were desperate people with few fears of consequences for their actions. By 20 August, German combatants numbered approximately 21,000. [68]

The mixed quality of units employed resulted in the commission of horrific atrocities against both the Polish civilian population and members of the AK. As a consequence, no quarter would be offered to these 'irregular' and ill-disciplined forces. Most notorious amongst the German forces were the Dirlewanger and Kamiński Brigades, known for their ill-discipline, looting, raping, and gruesome wholesale slaughter of any and all Poles. Their actions served only to stiffen Polish resolve to fight to the end, with expectation of either no quarter, or as a minimum ill treatment. In describing the Kamiński Brigade, even General von dem Bach-Zelewski was somewhat less than complimentary when he stated that the fighting value of these Cossacks was as usual in such a collection of people without a fatherland, very poor, and further that they had a great liking for alcohol and other excesses with no understanding of military discipline. [69]

A change in command occurred when by 10 August, General Röhr (a subordinate of General von dem Bach-Zelewski) was forced to take over command of the southern sector of Warsaw. Kamiński was to be subsequently shot after an SS court martial held in Łódz (German: Litzmannstadt), at the end of August 1944. [70] The Germans either regretted having either given the go-ahead for the full scale looting or having turned a blind eye to its occurrence. Kamiński's atrocities had served only to slow down the German operations in Warsaw.

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[68] Deschner, *Warsaw Uprising*, p.66.
[69] Macksey, *The Partisans of Europe in World War II* , p.220.

More importantly, German senior military personnel were becoming more and more convinced that the AK that they were up against were neither irregulars nor bandits but combatants who should be accorded the full protection of the Hague Land-Warfare Convention. [71] Whether this realization came as a result of recognition of the loss of the war or chivalry, it would bode well for the AK combatants after the Uprising. Germany was losing the war, and any changes in PoW treatment made were to strengthen the claim of such irregular formations to proper treatment. The Germans were also careful to apply the Hague Convention to members of the Polish Home Army captured in the Warsaw Uprising, and they became increasingly lenient with prisoners taken from Yugoslav Partisan formations. They also told the Red Cross that they were now willing to recognize as combatants anyone honouring Article 1 of the Hague Rules of War (1907), and German units in action against guerrillas were told to stop describing the enemy with pejorative expressions. [72] Despite this apparent change in attitude and a prohibition on looting and pillaging, fighting nonetheless remained intense with heavy artillery brought into the city by the Germans, to aid in the attrition warfare associated with urban fighting.

THE UPRISING FAILS

The brutality of the 63-day Uprising, in particular carried out by German forces under both Dirlewanger and Kamiński, ensured that the Polish insurgents, already intent on vengeance against the German occupiers, would fight with a ferocity unparalleled in

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[70] Śreniawy-Szypiowski, ed. *Powstanie Warszawskie 1 Sierpnia – 2 Pazdziernika 1944: Słuzby w Walce,* p.243.
[71] Deschner, *Warsaw Uprising*, p.87.
[72] Biddiscombe, *Werwolf: History of National Socialist Guerilla Movement*, p.120.

modern urban warfare. Many young Polish combatants neither expected, nor were they prepared to give any quarter to surrendering SS soldiers.

Tragically, before the end of September 1944, it had become clear that the AK personnel in Warsaw were fighting a hopeless cause. Relief from the Soviet Red Army waiting on the East bank of the Vistula (*Wisła*) River was not forthcoming. Despite the valiant efforts of Commonwealth aircrew from the United Kingdom, South Africa, Canada and Poland, re-supply was insufficient for operations to continue. The 1st Polish Independent Airborne Brigade had already been committed to Operation MARKET GARDEN on 21 September by parachuting into Driel, near Arnhem in the Netherlands. The AK defended increasingly small tracts of Warsaw, became exhausted and were outgunned. The end was in sight; wide-scale surrender became inevitable.

THE NEGOTIATED SURRENDER

Entering into any kind of parlayed surrender must have brought to mind any of a number of scenarios, none of them positive to the Polish leadership, since at the outbreak of the Uprising, Hitler's second-in-command and Head of the SS, Heinrich Himmler had issued an order specifying that not only the members of the AK must be killed but the entire population of Warsaw and that there would be no taking of prisoners. Warsaw was to be razed to the ground and left as a frightening example for the whole of Europe.[73] [74]

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[73] Lewandowska and Martin, eds. *Powstanie Warszawskie 1944,* p.205.
[74] Tadeusz Bielecki and Leszek Szymanski, *Warsaw Aflame* (Los Angeles: Polamerica Press, 1973), p.137.

According to a post-war deposition, General von dem Bach-Zelewski claimed that he received the following instructions from both Hitler and Himmler: [75]

(1) Captured rebels are to be shot, regardless of whether they have fought in accordance with the Hague Convention;
(2) Those who did not take part in the fighting, such as the women and children, are also to be killed; and
(3) The entire city is to be razed to the ground; the houses, streets, buildings – everything!

Fortunately for the Polish population of the city, both combatants and non-combatants, this policy was not implemented. In the aftermath of the Uprising, although the city was razed, civilians were allowed to leave the city and prisoners were taken. The threats can be seen rather as the ravings of a rabid Nazi leadership, out of touch with the reality of the war situation.

It was not until 9 August (ninth day of the Uprising) that the German assessment of an easy victory began to change. The Army Group Centre *(Heeresgruppe Mitte)* war diary entry of that date stated that the organized defence of Warsaw has increased as time passed. "It would be impossible to crush it with our present forces. Our own losses are high."[76] On 13 August the command of the entire German force was assumed by SS Obergruppenführer Erich von dem Bach-Zelewski. Up to this point, the command had been somewhat fractured, with operations conducted under the Commander of the 9th Army General Nikolaus von Vormann; General Stahel, Commander of the Warsaw

[75] *Ibid.*, p.137.
[76] *Ibid.*, p.144.

garrison; and the commanders of the various units quickly transferred to Warsaw in order to aid in quelling the Uprising.

Respect, albeit grudgingly, can perhaps be read between the lines when German 9th Army Commander General Von Vormann reported on 17 August that "in Warsaw the insurrectionists, in spite of heavy losses, were bitterly defending themselves against our troops advancing on three sides." [77] Although the Poles were conducting a losing battle, they continued to behave in the manner expected of a professional army, abiding by the laws of war at the time.

On 30 August, the Government of Great Britain issued the following statement, perhaps more as a warning to the German forces that they would be held personally responsible for any violations of the rules of war, but also as moral support for the AK:

> (1) The Polish Home Army, which is now mobilized, constitutes a combatant force forming an integral part of the Polish Armed Forces.
>
> (2) Members of the Polish Home Army are instructed to conduct their military operations in accordance with the rules of war, and in doing so they bear their arms openly against the enemy. They operate in units under responsible commanders. They are provided with a distinctive emblem or with Polish uniforms.
>
> (3) In these circumstances reprisals against members of the Polish Army violate the rules of war by which Germany is bound. His Majesty's Government therefore solemnly warns all Germans who take part in or are in any way responsible for such violations that they do so at their peril and will be held answerable for their crimes. [78]

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[77] *Ibid.*, p.144.

An identical statement was issued on the same day by the United States Government. [79] This statement served to remind both sides of the conflict of their obligations under the laws of war. Since the United States and Great Britain were unable or unwilling to send any significant quantity of supplies or to provide troops to the beleaguered insurgents, the statement was hollow.

On 3 September, AK Commander General 'Bór' Komorowski informed the London-based Polish Government-in-exile that the Warsaw Uprising should be ended. To that end, the President of the Polish Red Cross, Countess Maria Tarnówska made two separate contacts with German General Gunther Röhr (Commander of German forces in the southern sector of Warsaw) on 4 and 8 September respectively. These meetings were to pave the way for surrender talks that began on 9 September. These approaches were conducted largely in desperation with the hope that external help would come to the aid of the beleaguered AK combatants. Political discussions and maneuvering well beyond the control of General 'Bór' Komorowski forced the Soviets to begin operations on the east bank of the Vistula (*Wisła*) on 10 September (the 41st day of the Uprising). Despite attempts by the AK leadership to continue to extend the surrender talks while they waited to see how much support the Soviet Red Army was actually going to provide, the final German ultimatum of capitulation by 1 p.m. on 11 September came and went. German patience ran out and the German attacks resumed. AK Commander 'Bór' Komorowski, hoping for the best and fearing the worst, opted to continue with the Uprising. [80]

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[78] Katharine Atholl. *The Tragedy of Warsaw* (London: Butler & Tanner, 1945) p.27/28.
[79] *Ibid*., p.28.
[80] Lukas, *The Forgotten Holocaust*, p.213/214.

On 5 September, General von dem Bach-Zelewski had issued a letter to both the AK combatants and the civilian population of Warsaw, allowing two separate one-hour cease fires on 7 and 8 September for humanitarian reasons to allow those civilian non-combatants, who wished to leave the city for the western outskirts of Warsaw. His humanitarian gesture to stop 'the spilling of innocent Polish blood' by allowing the women and children to go free, could be interpreted as an early indication of the respect with which he held the AK fighters and possible foreshadowing of the kind of treatment he would possibly afford to surrendered AK combatants. [81]

On 6 September, another change in the treatment to be accorded to the AK combatants occurred when Himmler sent a dispatch to von dem Bach-Zelewski instructing him that the captured insurgents should be sent to concentration camps, and the civilian population: women and children included, to forced labour in Germany. [82] This change in treatment policy would result in a large logistical undertaking at a time when German resources were already stretched thin. Despite Himmler's desire for harsh treatment, on 7 September a joint proposal from General von dem Bach-Zelewski and the Commander of the 9th Army (Army General Nikolaus von Vormann) to treat the AK as prisoners of war in the event of capitulation was finally accepted by Hitler, in order to end the hostilities and the drain on scarce German combat resources. [83]

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[81] Śreniawy-Szypiowski, ed. *Powstanie Warszawskie 1 Sierpnia – 2 Pazdziernika 1944: Słuzby w Walce,* p.248/249.
[82] Bielecki and Szymanski, *Warsaw Aflame*, p.151.

Despite the intense fighting that followed Himmler's dispatch, the Poles persisted in their struggle and continued to hope for outside help. A 110 aircraft re-supply drop by the United States Army Air Force on 18 September did much to improve combatant morale even though the bulk of the containers fell into German hands. Though air supply drops had been conducted from 4 August to 21 September 1944, the effect was greater from a morale point of view, than from a material point of view since the AK controlled areas for possible Dropping Zones was by this time already severely restricted. Despite the heroic efforts of the aircrew, many of whom perished in their attempts to assist the AK, the support was insignificant. [84]

By this time, the areas of Warsaw occupied by the AK had begun to shrink and the situation of the surviving combatants had become increasingly more desperate. Various AK-held regions of the city were falling to the Germans. On 23 September, the German Army Group Centre Command reported that the last resistance had ceased in Czerniaków (south-west Warsaw), and that the insurgents had fought to the last bullet. [85]

On 26 September, seeing no other way out and with their ammunition practically gone, the remaining insurgents in Mokotów (south-west Warsaw) decided to surrender and emissaries were sent. Despite this, German forces attacked and fierce hand-to-hand fighting ensued. Major Kazimierz 'Żryw' Sternal asked once again for capitulation terms in order to save the civilian population and the remainder of his AK forces. At 11 a.m. on

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[83] Lewandowska and Martin, eds. *Powstanie Warszawskie 1944,* p.212.
[84] Orpen, *Airlift to Warsaw: The Rising of 1944*, p.158
[85] Bielecki and Szymanski, *Warsaw Aflame*, p.154.

27 September Mokotów surrendered. Approximately 2,000 members of the AK were taken prisoner at this time. [86] After the surrender of Mokotów, General 'Bór' Komorowski and his staff estimated that they could last no more than five days. He then informed the London-based Polish Government-in-Exile that if no Soviet assistance came by 1 October, then the AK would have to surrender. [87]

On 27 September, on the same day as the surrender of Mokotów, Himmler telephoned General von dem Bach-Zelewski to inform him that for the successes in Warsaw to date, Hitler had awarded him the Knight's Cross to the Iron Cross, SS-Gruppenführer Reinefarth Oak Leaves to the Iron Cross and SS-Oberführer Dirlewanger the Knight's Cross to the Iron Cross. [88] The successful suppression of the Warsaw Uprising could now serve as an example of the kind of treatment that could be expected in other German-occupied capital cities. Recognition of their successes by awards was also a recognition that the conduct of the operation was acceptable.

The ferocity of the German attacks on 29 September against Żolibórz (north-west Warsaw), one of the few remaining sectors under AK control, signaled the end. Despite attempts by Colonel Mieczysław 'Żywiciel' Niedzielski to join the Soviet forces on the east side of the Wisła River, General Tadeusz 'Bór' Komorowski, Commander of the Home Army decided to capitulate and Colonel Karol 'Wachnowski' Ziemski was sent to

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[86] *Ibid*.,p.156.
[87] Lukas, *The Forgotten Holocaust*, p.217.
[88] Śreniawy-Szypiowski, ed. *Powstanie Warszawskie 1 Sierpnia – 2 Pazdziernika 1944: Służby w Walce,* p.246.

Żolibórz to announce that decision. On 30 September, Żolibórz surrendered. [89] On the same day, in a move to perhaps recognize the efforts of the AK, the President of the Polish Government-in-Exile replaced General Kazimierz Sosnkowski as Commander-in-Chief of the Polish Armed forces with General 'Bór' Komorowski. As Sosnkowski stated: "my Deputy, the heroic and long suffering hero 'Bór' Komorowski was named as commander, a move that was sure to touch the heart of every soldier." [90] Although well-intentioned, it was an empty gesture.

Despite the reservations of the Polish Government-in-Exile, General 'Bór' Komorowski decided to enter into negotiations with the German Commander General Erich von dem Bach-Zelewski. Given the previous treatment of underground armies, insurgents and partisans in other German occupied countries, he was entering into uncertain waters. He hoped for the best, likely believing that since German prisoners captured by the AK were being treated in accordance with the Hague Convention, except for SS who were shot if a military court proved them without a doubt guilty of crimes, that perhaps the Germans would behave with similar honour. [91]

In the infamous 'Parasol' Battalion fighting in Śródmieście (west central) sector of Warsaw, the activities during the last five days prior to surrender centred on the integration of the remaining soldiers into fighting elements. During rest periods, discussion focused on their eventual fate and the possibility of escape from Warsaw after

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[89] Bielecki and Szymanski, *Warsaw Aflame*, p.158.
[90] Matecki, ed. *Kazimierz Sosnkowski : Materiały Historyczne* , p.208.
[91] Bielecki and Szymanski, *Warsaw Aflame*, p.168.

capitulation. Views were mixed between those who wanted to go into captivity as soldiers, those who wanted to leave as civilians and those who wanted to continue fighting. The ease with which combatants could leave, alternating between civilian and combatant status was a large part of the German dilemma in recognizing who was a legitimate combatant. When it comes to civilian or military status, it is one of the purposes of the laws of war to ensure that an individual must choose to belong to one class or the other, and is not be allowed to enjoy the privileges of both; in particular, that an individual shall not be allowed to kill or wound members of the Army of the opposed nation and subsequently, if captured or in danger of life, to pretend to be a peaceful citizen. [92] In the final result, on 4 and 5 October, as part of the 72nd Infantry Regiment of the 28th Division "Stefan Okrzei", the 'Parasol' Battalion fell under the command of the General Staff of the AK and marched into captivity. [93]

Formal negotiations between the AK and German representatives began at General von dem Bach-Zelewski's command post at Ożarów (south-west of Warsaw) at 8 a.m. on 2 October.This preparation prior to surrender would more easily grant PoW status to combatants surrendering en masse. AK Commander General 'Bór' Komorowski did not take part but sent a four-member delegation under Colonel 'Jarecki' Iranek-Osmecki and Lieutenant-Colonel 'Zyndram' Dobrowolski. General von dem Bach Zelewski, together with two policemen and an interpreter, negotiated on behalf of the Germans. [94] On 2 October, Polish representatives worked out the final surrender terms with von dem

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[92] Best, *War and Law Since 1945*, p.128.
[93] Piotr Stachiewicz, *Parasol* (Warszawa: Instytut Wydawniczy Pax, 1981), p.608.
[94] Deschner, *Warsaw Uprising*, p.151.

Bach-Zelewski; the Germans recognized the rights of the AK Combatants in accordance with the Geneva Convention of 1929, [95] whereby AK soldiers were to be treated as prisoners of war in accordance with the rights of the Geneva Convention. Civilians were not to be persecuted, and their evacuation from Warsaw, demanded by the Germans, was supposed to be conducted in such a way to minimize suffering. [96] The declaration of surrender (*Umowa kapitulacyjna* - act of capitulation) was signed at 8:20 p.m. on 2 October. The AK was awarded combatant rights and its men and women passed into Wehrmacht custody as prisoners of war. [97] The agreement also called for the complete evacuation of the civilian population and the total abandonment of the city, in preparation for the German razing of the city. [98]

In accordance with the 1907 Hague Convention Respecting the Laws and Customs of War, Article 35: "Capitulations agreed upon between Contracting parties must take into account the rules of military honour, and once settled, they must be scrupulously observed by both parties."[99] The Poles were relying upon the honour of their German captors and the demeanor and decision of their commanders, who were perhaps concerned over their post-war treatment.

On 3 October 1944, official word of the surrender was relayed to the various combatants, typically by their platoon commanders reading the text of the surrender order

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[95] Krzysztof Komorowski, , ed. *Armia Krajowa* (Warszawa: Rytm, 2001), p.317.
Lewandowska and Martin, eds. *Powstanie Warszawskie 1944,* p.214.
[96] Lukas, *The Forgotten Holocaust*, p.218.
[97] Davies, *God's Playground : A History of Poland Volume II*, p. 477.
[98] Garliński, *Polska w Drugiej Wojnie Swiatowej*, p.403.

(*Rozkaz*) [100]signed by General 'Bór' Komorowski. Some combatants suspected the worst from the German captors and spent the evening of 3 October disabling the weapons they were to turn in after they had paraded past their Commander. [101]

The surrender agreement allowed the AK regiments to retreat from the battle in closed formation, four abreast, fully armed, and to lay down their weapons later. As they lay down their weapons, one combatant remembers it as quiet. [102] Officers were to be permitted to keep their side-arms. On 4 October following a short speech by their commander and singing of the Polish national anthem "*Jeszcze Polska nie zgnięła*" (Poland hasn't perished yet), the combatants clad in uniforms and civilian clothes wearing Polish national flag armbands (white over red) and Polish eagle insignia on their caps, the AK marched into captivity. [103] German officers and soldiers lined the street. They lowered their weapons and watched the retreat in silence. Some saluted to show their respect. [104]

On 5 October AK Commander 'Bór' Komorowski and his staff boarded a train at Ożarów for their internment at Gansenstein: "He started on the journey that ultimately led him to Colditz on 5 February 1945." [105] He and his key staff were to be incarcerated at the infamous Oflag (Officers' PoW Camp) IV C at Colditz, Germany, where the Germans imprisoned VIP prisoners and those considered problem cases or anti-German

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[99] 1907 Hague Convention Respecting the Laws and Customs of War, Article 35.
[100] Kunert, *General Tadeusz Bór-Komorowski* , p.269.
[101] Tarnówska-Sawicka interview 3/1/03
[102] Ponińska-Konopacka interview 14/6/02
[103] Deschner, *Warsaw Uprising*, p.152.

(*Deutschfeindlich*). Although because of his status and reputation, his captivity was to be better than the rest of his soldiers, at a post-liberation press conference held in London on 18 May 1945, when queried about the treatment of Home army personnel by the Germans he stated: "We had no contact at all with the outside, and lived in complete isolation. Otherwise, our treatment was similar to that of other Prisoners-of-War. I myself was locked into my cell at night, with a sentry posted at the door." [106]

Perhaps more importantly for General 'Bór' Komorowski, he possessed hostage value in the eyes of the German leaders. In the eyes of fellow prisoner, British Major E.R Reid, this fact undoubtedly saved his head.[107] The remainder of the AK combatants went into captivity hoping for the best, but expecting the worst. As one young combatant later wrote: "Treaty or no treaty, we did not trust the Germans to follow the international rules concerning prisoner-of-war treatment. We did not even expect them to bestow on us that title – too long had we been referred to as bandits and outlaws and all kinds of other unpleasant epithets." [108]

The Polish combatants therefore left their beloved city walking proudly, in an orderly fashion, with their commanders at the head of greatly reduced units. Most of them

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[104] *Ibid.,* p.156.
[105] Major P.R. Reid, *Colditz: The Full Story* (London: Pan Books, 2002) p.247.
[106] Kunert, *General Tadeusz Bór-Komorowski* , p.416.
[107] Reid, *Colditz: The Full Story*, p.263.
[108] Leokadia Rowinski, *That the Nightingale Return* (London: McFarland and Company, 1999), p.94.

were drained of their strength and had little hope for the future, not knowing whether the Germans would keep the terms of the surrender agreement. [109] [110]

After five years of ruthless Nazi occupation, followed by the 63-day struggle for their lives, many surrendering combatants expected the worst, in the case of some combatants, to be shot as various units and members of the German forces had already demonstrated in the past. A number of the young combatants were married on the eve of the surrender. [111]As they were marched to Ożarów (south-west of Warsaw), where they would be put onto transport trains (*pociąg towarowy*) they really didn't know what to believe with regards to their future fate. [112] Another AK veteran, then 14-years old, who would end up in captivity at Stalag XB (Sandbostel), recalls that they expected to be shot, reflecting the view of those combatants who had resigned themselves for the worst.[113]

Although the Germans had agreed to the terms of the Capitulation Agreement, the deep mistrust of the Poles for the word or signature of a German officer meant that in Ożarów, the combatants of the Warsaw Uprising awaited their fate. [114]

The ferocity of the fighting might also have meant that the German hierarchy would be unable to control all of its soldiers when it came to retribution, since the discipline of soldiers who had previously stepped out of line had been severely dealt

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[109] Lisa Banister, ed. *Equal to the Challenge* (Ottawa: DND, 2001), p.44.
[110] Tarnówska-Sawicka interview 3/1/03.
[111] *Ibid*.
[112] Sujkowska-Francka interview 9/11/02.
[113] Wratna-Kolberg interview 15/ 4/02

with, except when it came to Poland. In the case of German-occupied Poland, punishment did not apply to political and racial categories, who were deemed by the Nazi regime as undeserving of the accepted rules of war. [115]

It was not until 1949 that a change to the Geneva Convention would clarify the status, the biggest change being the legitimization of armed resistance in occupied territory. The Hague Regulations' phraseology had implied, and all regular military doctrine had asserted, that once an occupation existed de facto, guerrilla resistance to it was impermissible de jure. [116]

POST OPERATION CAPTIVITY

Because such issues as separate accommodation for women were not specifically dealt with, Article 83 of the Convention relative to the Treatment of Prisoners of War (27 July 1929) provided a loophole of sorts for the German captors to act in the manner they deemed appropriate. The handling of women-soldiers, afforded rights by both the Geneva Convention and the Capitulation Agreement had no historical precedent. [117]

The International Committee of the Red Cross (ICRC) was to discover that despite the fact that the terms of the capitulation recognized the combatants who

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[114] Adam Borkiewicz, *Powstanie Warszawskie 1944: Zarys Działan Natury Wojskowej* (Warszawa: Instytut Wydawniczy Pax ,1969) p.547.
[115] Bartov, *Hitler's Army: Soldiers, Nazis, and War in the Third Reich,* p.61.
[116] Best, *War and Law Since 1945*, p.130.
[117] Roza Bednorz, et al. *W Niewoli Wehrmachtu* (Opole: Lambinowicki Rocznik Muzealny, 1985), p.130.

surrendered to the German forces, including the army's female auxiliary personnel, as prisoners of war, the German authorities did not respect these clauses of the capitulation, and the ICRC delegates who visited the camps where the women were held could do nothing but corroborate the complaints of these prisoners: overcrowding and discomfort of the quarters, lack of heat, clothing and food, imposition of heavy work, etc. After making representations to the German authorities, the ICRC received assurances that there would be no more forced labour for the women auxiliaries and that they would be interned in separate camps where they would receive treatment appropriate to their sex and state of health. Despite these assurances, the ICRC delegates did not observe any particular improvements in subsequent visits. [118] This situation was similar to that afforded Soviet PoWs, taken prisoner and then neglected in captivity largely for ideological and racial reasons.

The movement of a large number of prisoners of war to PoW camps, at a time when Soviet Red Army units were already in the eastern suburbs of Warsaw and Germany and her railways were being repeatedly bombed by the Allied air forces, was not a simple logistical undertaking. Typical of the trip was that experienced by Halina Tarkówska-Sawicka: a 20 kilometer long walk to the railway station, followed the next day by the loading of up to sixty prisoners on each freight wagon, then a four or more day trip, replete with railway siding halts due to Allied bombing, to one or more transit camps, and then onto a final destination at a Stalag (enlisted soldiers' PoW camp). [119]

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[118] Francoise Krill, "The Protection of Women in International Humanitarian Law." *International Review of the Red Cross* No.249 (1985): p.7
[119] Tarnówska-Sawicka interview 3/1/03

Whether intentional or not, the Germans had complied with Article 8 of the 1929 Convention Relative to the Treatment of Prisoners of War which specified that "the evacuation of prisoners on foot shall in normal circumstances be effected by stages of not more than 20 kilometres per day, unless the necessity for reaching water and food depots requires longer stages." [120]

"During all this travel, former combatants were undoubtedly accompanied by a lingering doubt, not knowing where they were going or what the Germans would do to them." [121] Halina Pływaczewska-Celińska and Zofia Wratna-Kolberg consider themselves lucky to have been transported to Stalag X B (Sandbostel); while in transit on a goods train, there were only 40 to 50 women per wagon and they were given a portion of bread with margarine and something resembling coffee. [122] Along the train route, Polish people greeted the AK combatants sincerely, men saluted, and women cried. [123] The PoW former AK combatants were seen as heroes by the long suffering Polish population.

Since there was no single PoW camp capable of accommodating all of the AK combatants taken into captivity in Warsaw, for the most part, the new PoWs were billeted in existing Stalags (other ranks) and Oflags (officers) in both present day Germany and Austria, at the time both part of the German Reich. This situation served to reinforce the

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[120] Convention Relative to the Treatment of Prisoners of War (27 July 1929), Article 8.
[121] Lisa Banister, ed. *Equal to the Challenge* (Ottawa: DND, 2001), p.44.
[122] Halina Celinska, Zofia Kolberg and Eva Konopacka. Lecture 123 on Polish Culture Issues. City of Ottawa. Ottawa, 9 Feb. 1999.
[123] Bednorz, et al. *W Niewoli Wehrmachtu*, p.45.

German view that they, the AK combatants, were not deserving of any special treatment, being mixed in with other combatant PoWs from other countries. Typical of the initial treatment for a PoW was a period of time spent in a transit camp that could well turn out to be a purgatory of sorts. One group of women PoWs spent a three-week period in Stalag XI B (Fallingbostel) where they received nothing from the Red Cross and had to rely on the generosity of fellow PoWs from Poland, Belgium, France and Serbia. [124]

Treatment of prisoners was to vary from camp to camp, but to be fair, in the latter stages of the war, the German guards were often as hungry as the prisoners. [125] In fact, according to one young combatant: "Some of the Germans were surprisingly nice people in that bad situation. I think they knew that the war would soon be over and that they had better be nice to the prisoners, as it might help them later on." [126]

On 6 October, the transport containing the 15th Regiment of the AK left Ożarów. The transport went via Częstochowe and Lubliniec under heavy escort: PoWs were locked in railroad freight wagons with 80 people per wagon. Along the route, an individual German soldier shot at the wagon, wounding two people. On 8 October, the transport arrived at Lambinowic (German: Lamsdorf). [127]

On the first day of captivity, the prisoners had to spend the night under the skies, on the cold ground and on the following day, were forced to turn over all their valuables, the captors taking not only money and silver cigarette holders, but even linen and

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[124] *Ibid*., p.26.
[125] Banister, ed. *Equal to the Challenge*, p.45.
[126] Tarnówska-Sawicka interview 3/1/03.

blankets. [128] Although the treatment soon changed, confusion amongst the prisoner of war camp hierarchy, conditioned to regarding the Poles as less than human as a result of racial preconceptions instilled through Nazi racist propaganda, either did not receive the direction regarding their treatment or disregarded it.

In the confusion of wartime, whether by design or not, not all surrendered AK combatants were sent to Germany. A group of approximately 40 young women AK combatants, captured on 27 September when Mokotów was surrendered, were shipped on a goods train to Stuthof-Waldlager in northeastern Poland, one of the oldest international camps and extermination centres run by the Germans. Needless to say their arrival caused a certain amount of commotion, not only with the German authorities, but also among the camp's male prisoner population. Eventually, their status was sorted out: They were entered in the camp records as "Polnische Kriegsgefangene" (Polish PoWs). To distinguish them from other prisoners, each of them wore an armband on the right sleeve of their blouses with the letters "AK". *[129]*

From 22 October onward, the prisoners of war were settled in various camps. Women prisoners were sent to the camp at Bergen-Belsen. Just before Christmas 1944, the Germans were to group all women prisoners from the Uprising, numbering some 1,719 women (soldiers and officers) in the camp at Oberlangen (Stalag VI C). [130] For the

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[127] Borkiewicz, *Powstanie Warszawskie 1944: Zarys Działan Natury Wojskowej*, p.547.
[128] *Ibid*., p.548.
[129] Halina Gorcewicz, "Why, Oh God, Why." *Nazi Concentration Camp Stuthof* (Trans. Jerzy Klinger.1998), p.1.
[130] Borkiewicz, *Powstanie Warszawskie 1944: Zarys Działan Natury Wojskowej*, p.548.

most part, combatants were sent to camps as part of the groups with which they were captured or with whom they surrendered. Since units came from geographical sections or suburbs of Warsaw, the combatants often knew each other prior to captivity.

Upon the arrival of one transport of 1,800 AK PoWs at Altengrabow (Stalag XI A), a camp in Germany, a German escort approached the senior Polish officer, a Colonel, and said that since the Commandant of the camp was also a Wehrmacht officer, he trusted that they would see each other in better times and under different circumstances. They saluted one another upon departure. [131] Another combatant described a feeling of relief after finally arriving at a PoW camp saying the AK knew that they would be treated as PoWs by the Germans, hatred for the Germans temporarily taking a back seat. [132]

Despite the agreement by the German hierarchy as to treatment of the AK as combatants entitled to all of the associated privileges specified in the Convention Relative to the Treatment of Prisoners of War (27 July 1929), the passage of information was neither good nor uniform, and confusion at the destination PoW camps was fairly common. The description of the arrival of former AK combatant Hanna Czuma was fairly typical:

> "When we arrived at Jakobstahl in cattle-wagons in October 1944, after a three day journey, the German commander took one look at us and refused to admit us without conferring with his superiors. We were some 2,500 Poles of all ages, including many sick and wounded. There were soldiers in uniform, and some civilians, emaciated and filthy children as young as 10, and even a few dogs.

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[131] Lewandowska and Martin, eds. *Powstanie Warszawskie 1944,* p.264.
[132] Ponińska-Konopacka interview 14/6/02.

> When we were finally admitted, the PoW quarters - up to now a male-only facility - changed overnight into a military hospital camp for men, women and children."[133]

The civilian appearance of the former combatants reflected the changing nature of the war and the kind of opponents the Germans were facing in their increasingly inferior position.

In accordance with both the Geneva Convention Relative to the Treatment of Prisoners of War (27 July 1929), Article 36 and the Capitulation Agreement Section II, paragraph 5 and Section III, paragraph 12, notice cards announcing an individual's arrival in a PoW camp (*Zawiadomienie o pobycie w niewoli*) were to be sent. [134]Overall, these cards were either sent out sporadically or, given the poorly functioning mail system in the latter part of the war, did not reach their final destinations. Letters were few and far between, given the German requirement for the authors to use either the scarce *Polnische Kriegsgefangensendung* or *Kriegsgefangenpost* formatted envelopes. Zofia Wratna-Kolberg recalls that they were permitted to write one card and one letter per month, and that after their arrival in camp, fellow prisoners gave willingly of their formatted envelopes so that the AK combatants could let their next-of-kin know their whereabouts and state of health. [135] Towards the very end of the war, mail delivery was inexplicably improved.

During World War II, Switzerland and Sweden acted as Protecting Powers. Switzerland was designated by both Germany and the western Allies as the protecting

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[133] Hanna Czuma, "Behind Barbed Wire." (*Legion Magazine* Nov/Dec. 199), p.16.
[134] Convention Relative to the Treatment of Prisoners of War (27 July 1929), Article 36.

power under the Geneva Convention of 1929 with respect to prisoners of war. [136] The International Red Cross at Geneva acted as a central clearinghouse for the exchange of all information regarding location, status and the tracing of prisoners of war and also was in charge of transmitting all correspondence and parcels. [137] The distribution and issue of Red Cross packages for the prisoners was, however, one that was never handled well. The passage of information on locations of PoWs, poor or absent delivery means, and in many cases theft, combined to ensure that very few packages were to reach their intended recipients. Given the Allied air forces' disruption of German communications and transport networks, this situation was consistent with most of the Allied PoWs held in German hands, certainly towards the end of the war.

This type of treatment occurred while the designated senior Polish prisoner hierarchy attempted to organize the camps along military lines, with respect to consideration of personnel in the various Stalags and Oflags. [138] As stipulated under the Geneva Convention, the Polish camp hierarchy paralleled that of the German administration, with a Camp Spokesman, Deputy Commandant and Headquarters staff, with barracks formed into companies and all the functions one would associate with administration of an operational military battalion or brigade being replicated, to include medical and educational staff. In many camps, including Murnau where former AK combatants were imprisoned, there were already Polish PoWs from 1939. When 'Bór'

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[135] Celinska, Kolberg and Konopacka. *Lecture 123 on Polish Culture Issues*.
[136] *Detlev Vagts*, "Switzerland, International Law and World War II." American Journal of International Law Volume 91, No.3, July 1997, p.4.
[137] Columbia Encyclopedia. "Prisoners of War" *Columbia Encyclopedia*, Sixth Edition, 2001, para 7.
[138] Bednorz, et al. *W Niewoli Wehrmachtu*, p.46.

Komorowski and the other senior officers arrived at Oflag IVA (Colditz) there was already a Polish contingent, for the most part held since 1939.

In earlier trials of Polish PoWs held since 1939, no Protecting power was ever notified of these proceedings. According to Judge Walter Lichtenheldt, who was responsible for the prisoner-of-war department in the Wehrmacht's legal division, the GC of 1929 "had no application with regard to Polish prisoners of war because Poland had ceased to exist" [139]

In 1941 these PoWs had complained to the German camp hierarchy that the Germans were not applying the Geneva Convention to them, claiming that Poland as a country no longer existed. The German response was that if they wanted to be treated correctly, you must behave correctly. [140] As the war progressed, treatment of the Polish PoWs had improved to that of the standard of the other nationalities.

At various times during their imprisonment, the Germans would attempt to persuade prisoners-of-war to revoke their PoW status and any rights they were entitled to under the Geneva Convention with promises of better food, accommodations and treatment. Although other ranks were obligated under the Geneva Convention of 1929 to work, as long as they were paid, [141] in accordance with the 1907 Hague Convention Respecting the Laws and Customs of War: "it was forbidden to compel the inhabitants of

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[139] de Zayas, *The Wehrmacht War Crimes Bureau 1939-45*, p.93.
[140] Reid, *Colditz: The Full Story*, p.94.
[141] Convention Relative to the Treatment of Prisoners of War (27 July 1929), Article 27.

occupied territory to swear allegiance to the hostile Power." [142] The Germans could not and did not force the issue. Given that this attempt at coercion occurred in a number of the PoW camps, it would seem that the renouncement of status was part of an overall German plan to rid the hierarchy of the extra PoW problem. This plan was with an eventual goal of using the Poles as slave labour in munitions factories, something their PoW status would not allow the German captors to do. In the words of one PoW "although the temptation was enormous, they all held steadfastly to their belief, that once they chose to be soldiers fighting for their country, they should not abandon this distinction, the consequences be what they might. It was simply a matter of honour." [143] More importantly, by renouncing PoW status, a PoW would open himself up to treatment as a civilian and possibly as unlawful combatants who took up arms against the German occupiers.

In Stalag VI C at Oberlangen, Germany, of the over 1700 women prisoners polled by the German camp hierarchy, only 15 were ready to volunteer to give up their PoW status. According to one former AK combatant: "One day an SS officer came to suggest that we relinquish our prisoner or war rights and join the civilian population. In return we would receive better quarters and better food. He gave us a couple of days to think things over. We decided to remain prisoners of war. The Germans were not pleased." [144] [145]

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[142] Hague Convention IV (18 October 1907) Convention Respecting the Laws and Customs of War on Land
[143] Rowinski, *That the Nightingale Return*, p.103.
[144] Banister, ed. *Equal to the Challenge*, p. 259.
[145] Ponińska-Konopacka interview 14/6/02.

Owing to such a small number of prisoners of war interested in their offer, the German captors considered the number too small to make it worth their while and consequently abandoned the idea. [146] The results obtained during a similar poll conducted in Stalag IV B at Muhlberg were equally dismal from the German perspective. [147]

In fact, the attitude of the senior Polish prisoners in the various camps reflected quite the opposite of a defeated people looking to better their lot by renouncing their hard-won combatant status. They knew that the Germans had lost the war and that they would soon be liberated. The maintenance of military discipline and a properly functioning chain of command was a priority. Saluting of even the hated German captors was enforced, the reasoning being there was more to saluting than the outward gesture. According to one combatant: "The way we saw it at last was a 'to be or not to be' challenge, either to be soldiers that the international agreement maintained we were, or not to be soldiers, and that meant reverting to being Polish bandits and being treated as such, just like the Germans had been treating us before."[148]

Even in Stuthof-Waldlager, the small band of 40 female AK PoWs demanded treatment as befitted enemies who met on the battlefield. One PoW stated her view that: "Since we had fought, we were military, and as military, we were Prisoners of War."[149] Despite this demand, the treatment accorded to these prisoners mirrored that accorded to the other camp inmates, showing the failure of the Stuthof camp hierarchy to abide by the

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[146] Sujkowska-Francka interview. 9/11/02.
[147] Tarnówska-Sawicka interview 3/1/03.
[148] Rowinski, *That the Nightingale Return*, p.110.

guaranteed agreement at the signing of the capitulation of Warsaw by General von dem Bach-Zelewski, that the women incorporated in the AK would be treated as soldiers.[150] Owing to their unexpected arrival and the small number of PoWs involved, this reflected either the attitude or ignorance of the German camp commandant of the status to be accorded the AK personnel. Owing to the remoteness of the camp, there was little recourse for the prisoners to complain.

Even at the notorious concentration camp of Bergen-Belsen in Germany, where a number of the male AK combatants were to be housed, the prisoners' expectations for the worst were not met. After a few days at Stalag XI B (Fallingbostel) in Germany, AK combatant Thaddeus Konopacki, along with a number of fellow PoWs, were moved to Bergen-Belsen. The ominous name was not very encouraging. According to Konopacki "The Germans, however, fulfilled their capitulation promises: they didn't place us in the concentration death camp. We were not persecuted although the food was pretty bad." [151]

The subject of work and who could be forced to work and under what conditions was another contentious issue. In accordance with the 1907 Hague Convention Respecting the Laws and Customs of War, Article 6 and further amplified in Article 31 of the 1929 Convention relative to the Treatment of Prisoners of War: "the work shall have no direction connection with the operations of the war. In particular, it is forbidden to

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[149] Gorcewicz, "Why, Oh God, Why." *Nazi Concentration Camp Stuthof ,* p.2.
[150] Ibid., p.4.
[151] Konopacki interview. 25/7/02.

employ prisoners in the manufacture or transport of arms or munitions of any kind, or on the transport of material destined for combatant units."[152]

The issue of work was exacerbated even further when it came to women prisoners-of-war. In the initial days of life at a number of the camps, the confusion of the administration as to what to do with the Polish former AK combatant PoWs, perhaps even coupled with the Nazi hatred of the Polish slavs, led some camp administrators to attempt to treat them either as slave or forced labour. In some cases, generally of an individual nature because of the risks and consequences, prisoners engaged in sabotage when forced to work in industrial, or anything related to military production.[153] When work was either of a light nature or could be used to supplement the meager prisoner diet but yet not aid in the German war effort, it was sought to avoid the monotony of daily prison life. [154]

At the end of November 1944, the German camp authorities at Bergen-Belsen sent a group of forty women to work on a state farm. After several days work, all in accord with the Geneva Convention, the Germans attempted to have the PoWs renounce their POW status in writing, and to remove all of their AK insignia and to wear the sign of a Polish civilian worker 'P'. This move, an experiment of sorts, was unsuccessful, although it was attempted on a number of occasions. [155]

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[152] Convention Relative to the Treatment of Prisoners of War (27 July 1929), Article 31.
[153] Bednorz, et al. *W Niewoli Wehrmachtu*, p.80.
[154] *Ibid*., p.86.

On 14 November 1944, a YMCA delegation from Sweden visited Stalag X B at Sandbostel in order to check on the conditions of the 522 Polish women prisoners of war. Unfortunately, the German Camp Commandant was well prepared for the visit, and the visitors had no direct contact with the prisoners. Only the senior woman prisoner, acting as spokeswoman, was allowed to speak on behalf of all women PoWs, and then only through a camp-provided interpreter, a common practice in German-run PoW camps. [156] Obviously, real prisoner of war living conditions at the prepared camp were not determined by the delegation.

On 9 January 1945, the ICRC addressed an appeal to the American, British, French and German governments, stressing that Articles 3 and 4 of the Convention relative to the Treatment of Prisoners of War (27 July 1929) should be followed in regards to women prisoners of war. Both the US and French governments indicated that due to the small numbers of German women prisoners of war held, that they were already quartered separately and would be repatriated without delay. In February 1945, acting upon a request from the Polish Red Cross in London, the ICRC initiated talks to transfer the women AK prisoners of war to Switzerland. The German and Swiss governments had already agreed in principle to the transfer when the war ended. [157]

On 10 March 1945, an ICRC delegation from Geneva visited Oflag IX C (officers' camp) at Molsdorf. This camp housed, amongst its prisoner population,

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[155] *Ibid*., p.41.
[156] *Ibid*., p.91.
[157] Krill, "The Protection of Women in International Humanitarian Law.", p.7

approximately 4,000 AK combatants having officer status including 420 women (382 officers and 38 senior non-commissioned officers). Despite the fact that the camp had already been spruced up by the prisoners it was considered the worst that the delegation had visited. Their report described it as not a prisoner of war camp, but rather as the worst kind of concentration camp. [158] Although overall camp conditions were definitely deteriorating in the later stages of the war, given that it was an Oflag (officers' camp), it may have been thought that it would have been of a better standard than most enlisted ranks' camps (Stalags).

After this visit, the Polish senior prisoner was allowed to send a letter to the ICRC that resulted in yet another visit on 22 March 1945. The visit report stated: "Whereas the camp conditions were described as scandalous, the report also admitted that the camp authorities were not in a position to do anything to improve them." [159] In fact, Articles 10 and 11 of the 1929 Convention relative to the Treatment of Prisoners of War permitted the German captors a fair amount of leeway in this regard, which was particularly useful in the latter stages of the war when it came to camp conditions and the provision of food and clothing stating: "the conditions shall be the same as for the depot troops of the detaining Power and that the food ration of prisoners of war shall be equivalent in quantity and quality to that of depot troops." [160]

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[158] Bednorz, et al. *W Niewoli Wehrmachtu*, p.97.
[159] Ibid., p.120.
[160] Convention Relative to the Treatment of Prisoners of War (27 July 1929), Articles 10 and 11.

At the same time, a proposal was offered to the women prisoners of Stalag VI C (Oberlangen) by the German authorities. This proposal was in regards to the creation of an Anti-Bolshevik legion. Discussions were conducted over the Easter weekend as to which of its two neighbours the Poles despised least. In the end, the offer was refused, not least among the many reasons being if one legion of AK women combatants was supposed to save the Third Reich, then the situation must be really bad. [161] This desperate attempt to recruit personnel in the dying days of the war was not restricted to the rank and file of the AK; two exalted visitors came to Colditz in March (1945) in attempts to persuade General 'Bór' Komorowski to order the Home Army to cease fighting against Germany and instead to fight against Russia alongside the Germans. They got nowhere with the implacable Pole. [162]

Not content with the answer they received, the German hierarchy made one last attempt to change the Polish Commander's mind. On 10 April 1945, a messenger arrived at Colditz from Wilhelmstraβe, in Berlin, carrying an offer to General 'Bór' Komorowski, his release for helping Germany to form an underground Polish army to fight against the Russians, with him as the leader. It was the third time the offer had been made (the first after his surrender in Warsaw), and for the third time the General rejected it. [163]

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[161] Bednorz, et al. *W Niewoli Wehrmachtu*, p.135.
[162] Reid, *Colditz: The Full Story*, p.269.
[163] Reid, *Colditz: The Full Story*, p.276.

As to any decision taken by the honourable Commander with respect to the AK, recognized by the Germans as full combatants under the terms of the 1929 Geneva Convention, the desperation of the German forces in the final days of the war, was not going to change his mind. To the credit of the German negotiators, and perhaps as an indication of their recognition of the AK as a valiant foe, no force was applied to General 'Bór' Komorowski. This offer was likely one of desperation, given the Nazi hatred of the Slavic Poles, whom they regarded as less than human.

CHANGES TO GENEVA CONVENTION

Regrettably for the soldiers and civilians affected at the time, the nature of the law is that it is invariably reactive and not proactive. [164] Although not perfect, and recognizing that it remains a dynamic document – "it has not been found possible at present to concert regulations covering all the circumstances which arise in practice." [165] - The Geneva Convention relative to the treatment of prisoners of war has improved over time and attitudes toward prisoners of war have changed over time. Originally slaughtered, captives were later considered war booty. The captor still held life-and-death power, but it became more useful to make slaves of the prisoners. In feudal Europe the nobles were ransomed, and the Ottoman Empire and the Barbary States generally ransomed their Christian captives. [166]

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[164] Richard Goldstone, "Reflections on the Development of the Law of War." *McGill Law Journal Volume 46 (2000),* p.280.
[165] Hague Convention IV (18 October 1907) Convention Respecting the Laws and Customs of War on Land

It is with that changing attitude in mind that the nations of the world sought to codify that treatment. The introduction to the 1907 Hague Convention Respecting the Laws and Customs of War captures the early sentiments of both its drafters and the signatory nations: "Animated by a desire to serve, even in this extreme case, the interests of humanity and the ever progressive needs of civilization; thinking it important, with this object, to revise the general laws and customs of war, either with a view to defining them with greater precision or to confining them within such limits as would mitigate their severity as far as possible, *and further* inspired by the desire to diminish the evils of war, as far as military requirements permit." [167]

The actual treatment afforded to any combatant is, of course, dependent upon not only the desire of the signatories of the treaty to enforce the provisions of the treaty but to ensure that other signatories do as well. The first international convention on prisoners of war was signed at the Hague Peace Conference of 1899. This was expanded upon by the Hague Convention of 1907. These rules proved insufficient in World War I, and the International Red Cross proposed a more complete code, in 1929. [168]

The European experience between 1939 and 1945 again was decisive in shaping the post - 1945 legislation. [169]

October 1944, and therefore entitled to treatment as prisoners of war, was to be a first for the German forces and bring with it a number of issues not specifically covered in previous Conventions. As the Honourable J.J. Spigelman, Chief Justice of New South Wales said at an address at the University of Sydney, on the occasion of the 50th anniversary of the Convention: "Changes to the structure and process of modern warfare reflected in the Second World War led to the revision of the Third Convention of 1949." [170] A new convention, reaffirming and supplementing the 1929 Convention, was signed at Geneva in 1949 and subsequently ratified by almost all nations. (Germany and Poland included) It broadened the categories of persons entitled to prisoner-of-war status, clearly redefined the conditions of captivity, and reaffirmed the principle of immediate release and repatriation at the end of hostilities.[171]

Most importantly, in the 1949 Geneva Convention, Article 1 legitimized well-organized and professionally conducted partisans, such as Soviet, Polish, Greek, Italian, Yugoslav, and French partisans sometimes were between 1941 and 1945. Article 2, with an eye on the moral impossibility of forbidding an attacked people to lift a finger in its own defence, legitimized spontaneous non-organized resistance provided that arms were carried openly and the laws and customs of war respected. [172]

The following specific changes were made with regards to treatment and accommodations. Under Part II, General protection of Prisoners of War, Article 14:

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[170] J.J Spigelman, "Red Cross Gala Dinner Address by the Honourable JJ Spigelman, Chief Justice of New South Wales." 12 August 1999
[171] Columbia Encyclopedia. "Prisoners of War" *Columbia Encyclopedia*, Sixth Edition, 2001, para 8.
[172] Best, *War and Law Since 1945*, p.193.

"Prisoners of war are entitled in all circumstances to respect for their persons and their honour. Women shall be treated with all regard due to their sex and shall in all cases benefit by treatment as favourable as that granted to men." [173]

Article 25 paragraph 4 states that "in any camps in which women prisoners of war, as well as men, are accommodated, separate dormitories shall be provided for them." [174] The introduction of this paragraph was due to the presence of a number of women in the armies of belligerents in World War II. The interpretation that has been given to this provision is that the separation must be effective, in other words, male prisoners must not have access to the dormitories of the women prisoners, whether or not the women consent. The detaining power is responsible for the effective application of this provision.[175] Article 29 paragraph 2 states that "in any camps in which women prisoners of war are accommodated, separate conveniences shall be granted for them." [176]

The following changes were made relating to confinement as a result of Penal and Disciplinary Sanctions covered in Chapter III: Article 88 paragraphs 2 states that "a woman prisoner of war shall not be awarded or sentenced to a punishment more severe, or treated whilst undergoing punishment more severely, than a woman member of the armed forces of the Detaining Power dealt with for a similar offence." Article 88 paragraph 3 states "in no case may a woman prisoner of war be awarded or sentenced to a punishment more severe, or treated whilst undergoing punishment more severely, than a

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[173] Geneva Convention Relative to the Treatment of Prisoners of War (12 August 1949) (Convention III)
[174] *Ibid*.
[175] Krill, "The Protection of Women in International Humanitarian Law.", p.6.
[176] Geneva Convention Relative to the Treatment of Prisoners of War (12 August 1949) (Convention III)

male member of the armed forces of the Detaining Power dealt with for a similar offence." Article 98 paragraph 4 states that "women prisoners of war undergoing disciplinary punishment shall be confined in separate quarters from male prisoners of war and shall be under the immediate supervision of women." Article 108 paragraph 2 states that "a woman prisoner of war on whom such a sentence has been pronounced shall be confined in separate quarters and shall be under the supervision of women." [177]

To cover the particular case of pregnant women combatants, or already with infants and small children, the following addition was made in Annex B with respect to who was to be accommodated in neutral countries rather than being detained in a prisoner of war camp: para 7 states that "all women prisoners of war who are pregnant or mothers with infants and small children must be accommodated in neutral countries." [178]

The issue of a Detaining Power attempting to convince or force a PoW to renounce their status would now be covered by a new Article which would no longer allow them to renounce their status since in Article 7, "prisoners of war may in no circumstances renounce in part or in entirety the rights secured to them by the present Convention, and by the special agreements referred to in the foregoing Article, if such there be." [179] The illegality of forcing a prisoner of war to serve, already covered in the

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[177] *Ibid.*
[178] *Ibid*.
[179] *Ibid.*

1907 Hague Convention Respecting the Laws and Customs of War, Article 45 was now to be considered a Grave Breach under Article 130. [180]

The subject of what type of work a prisoner of war could be forced to do, previously covered in both the 1907 Hague Convention and the 1929 Geneva Convention under what type of work one could not be forced to do- no direct connection with the operations of the war (Article 31, 1929 Geneva Convention) - is now covered in Article 50 by describing the type of work that is permissible. "The types of work now include camp administration, agriculture, light industry (specifically defined), transport, commercial business, domestic service and public utilities having no military character or purpose." [181]

Though a dynamic document, continually being updated to cover new circumstances of modern warfare, and open to interpretations, the Geneva Convention has saved and will continue to save lives. "In the conflicts over nationalism, religion and political ideology there are very few creations of the human imagination, which are universally regarded as unequivocally good. The Geneva Conventions fall in that category." [182]

In fact, in view of the progress made in recent years, the ICRC, which bears the main responsibility for the further development of humanitarian law, sees no need for any

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[180] *Ibid*.
[181] *Ibid*.

major innovations in drafting new convention. There is an enormous need for action in implementing existing law and in disseminating the basic rules of behaviour under humanitarian law. [183]

CONCLUSION

Each war of the twentieth century has brought with it new precedents necessitating that the laws of war be revised in its aftermath. Regulations governing the treatment of prisoners of war have also evolved in response to the changing nature of war and reacted to the specific circumstances regarding combatants or with respect to war crimes. Unfortunately for some surrendered personnel, who would have been classified as combatants under the Geneva Convention, not all nations - signatory to the Convention or not - have afforded them the requisite treatment to which they would have been entitled.

The German treatment of partisans and surrendered or captured enemy regular army personnel in Yugoslavia, Greece, the Soviet Union and Italy, to name but a few of the Nazi-occupied countries, provided very real or at least anecdotal evidence of the potential bleak prospect that awaited surrendered or captured AK personnel. The 6 June 1941 Commissar Order and the 18 October 1942 Commando Order were additional concrete manifestations of the intent of the Nazi regime towards partisan-like

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[182] J.J Spigelman, "Red Cross Gala Dinner Address by the Honourable JJ Spigelman, Chief Justice of New South Wales." 12 August 1999.
[183] Kapp, Jean-Pierre. "The Geneva Conventions: No Reason to Celebrate After 50 Years." Neue Zuricher Zeitung. 12 August 1999.

organizations and irregular paramilitary forces. Despite the AK assumed prospect of certain exterm

most part, treated by the AK in accordance with the Geneva Convention. These mutual attempts to act both honourably and within the laws of war were made despite the fact that the Nazi German government did not recognize the existence of the Polish state.

German treatment of the AK combatants as prisoners of war enjoying the full rights and privileges accorded to them in both the 1907 Convention IV (18 October 1907) and the Convention relative to the Treatment of Prisoners of War (27 July 1929) which dealt with the issue of prisoner gender, put existing Conventions to the test in 1944/1945. Post-war review of all of the Geneva Conventions has proven that because of the changed methods of warfare in World War II, the maltreatment of prisoners of war that constituted an important part of the conflict war-crimes indictments, and the retention of a great number of German prisoners of war by the USSR for several years after the war, the 1929 Convention required revision on many points.

The designation and treatment of the 1944 Warsaw Uprising Home Army (AK) combatants, both men and women, as prisoners of war, has set a precedent for the treatment of combatants in virtually all post Second World War conflicts. Many of the changes reflected in the 1949 Geneva Convention relative to the Treatment of Prisoners of War (Convention III) can be directly or indirectly related to situations that arose in the aftermath of the 3 October 1944 surrender of the young Polish patriots. After subsequent twentieth century conflicts - to include the Korean and the Vietnam Wars and the most recent civil war in the Balkans - additional Protocols and Regulations have been written .

The Germans, recognizing the hopelessness of their cause and hoping even at this late stage of the war to stem the Russian advance westwards by enlisting any and all potential ‘allies’, gave the AK PoW status, thereby ensuring the survival of thousands of the spirited Polish patriots.

SURRENDER AGREEMENT [184] [185]

Ożarów, 2 October 1944.

INTRODUCTION

On 2 October 1944 an agreement over the cessation of hostilities was concluded.

The fully empowered contracting party from the German side is the Commander of the Warsaw area SS-Obergruppenführer and General of the Police von dem Bach Zelewski.

The fully empowered contracting parties from the AK side are, by written authority from the Commander of the AK, General Komorowski (Bór):

1. Colonel (dipl) Kazimierz Iranek-Osmecki 'Jarecki'
2. Lieutenant-Colonel (dipl) Zygmunt Dobrowolski 'Zyndram'

The agreement is worded:

PART I

1) On the 2nd of October at 8 p.m. German time (9 p.m. Polish time) military operations were terminated between Polish military units, fighting in the area of the city of Warsaw and German units. As Polish units will be considered all Polish formations under the tactical command of the AK in the period from 1 August 1944 to the day of the signing of this agreement. These units will henceforth be called "units of the AK".

2) Soldiers of the above Polish units will surrender their weapons in accordance with the terms of Part II of this agreement and will assemble in close formation with their leaders at the collection point. These collection points where weapons will be surrendered and troops assembled will be later detailed. Officers have the right to retain unloaded side-arms.

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[184] Tadeusz Bór-Komorowski, *The Secret Army* (Nashville: Battery Press, 1984.), p. 370.
[185] Wielka Illustrowana Encyklopedia Powstania Warszawskiego (Tom 3), p.585-593.

3) At the same time, the AK will hand over to the German Military authorities captured German prisoners as well as German civilians interned by the Polish authorities.

4) For the fulfillment of order and security on the territory of the city of Warsaw, specific units named by the commander of the AK will remain. These units are relieved of the obligation of surrendering their weapons and will remain in the city until the completion of their duties. The German Commander has the right to control the number of these units.

5) Soldiers of the AK are entitled to the rights of the Geneva Convention dated 27 August 1929, concerning the treatment of prisoners of war. Soldiers of the AK taken prisoner in the area of the city of Warsaw in the course of the struggle, which began on 1 August 1944, shall enjoy the same rights.

6) Those same non-combatant persons accompanying the AK, within the meaning of Article 81 of the Geneva Convention on the treatment of prisoners of war without distinction of sex, are entitled to the rights of prisoners of war. This affects in particular women working with headquarters staff and signalers, feeding and providing for soldiers, press-information services, war correspondents and the like.

7) In accordance with the Geneva Convention on the treatment of prisoners of war, officers' ranks will be recognized by the command of the AK. Legitymacja (*Polish Identification card*) with purported pseudonyms will suffice to prove membership in the AK. Real surnames will be provided for the information of the German military authorities. Members of the AK who have lost their legitymacja, will be identified by an AK commission, who will establish proof of membership. The commission will be appointed as required by the command of the AK. The resolution of this article is in accordance with the personnel mentioned in article 6 above.

8) Persons being prisoners of war in the sense of the above mentioned article shall not be persecuted for their military or political activities either during the struggle in Warsaw or in the preceding period, even in the event of their release from a prisoner of war camp. They will not be pursued for the offence against German regulations, in connection with un-registered officers, previously having fled prisoner of war camps, or illegal presence in Poland and the like.

9) In regards to the civilian population who found themselves in the city of Warsaw during the struggle, collective responsibility shall not be applied. No person who was in Warsaw during the period of the struggle shall be persecuted for functioning in time of war in the organization of administrative or judiciary authorities, security services, public order, social institutions and associations cooperating or participating in the struggle and the propaganda war. Members of

the above-mentioned departments and organizations will not be pursued for political activities during the Uprising.

10) The evacuation of the civilian population from the city of Warsaw which the German Command has demanded shall be carried out at such a time and in such a manner, as shall save the population superfluous suffering. It will be made possible to evacuate articles having artistic, cultural and religious value. The German command will do its best to protect the property remaining in the city, both public and private. The details of the evacuation will be by a separate understanding.

PART II

1) Command of the AK pledges on 3 October 1944 beginning at 7 a.m. (8 a.m. Polish time) to remove barricades at the nearest German lines.

2) Command of the AK will bring forth on 2 October 1944, no later than 24:00 hours (1 a.m. Polish time) to the German lines all German PoWs, as well as interned German civilian personnel that are representatives of the German Armed Forces.

3) If the removal of the barricades is not started on time, the German command reserves the right of the pronounced declaration on 3 October 1944 to do so from 12 a.m. German time (1 p.m. Polish time), by this declaration within the efficacy of two hours from the reception of written notification of the pronounced arrangement at the Polish lines.

4) Command of the AK pledges to lead out from Warsaw for the taking (surrender) of arms on 4 October 1944, one regiment consisting of 3 battalions from various regiments. The head of this unit must start crossing German lines on 4 October at 9 a.m. German time (10 a.m. Polish time).

5) Remaining AK units, with the exception of the units named in section I, paragraph 4 of this pact, will leave Warsaw for the surrender of arms on 5 October 1944.

6) AK units will cross the Polish lines with weapons, but without ammunition, using the following routes:

    a. from southern Śródmiescie – 72nd Infantry Regiment along Śniadecki, 6 Śierpnia (formerly Szuch) (6 August), Such and Filtrowa streets.

    b. from northern Śródmiescie –

        i. 36th Infantry Regiment along Napoleon Square, Śikorski Avenue (Reich Street) and Grojecka (Radomer) Street.

ii. 15th Infantry Regiment along Grzybówska, Chłodna (Eisengruben), and Wolska (Litzmann) Streets.

7) In the city, the following AK forces will remain:

   a. for the maintenance of order, 3 companies of infantry, armed with machine pistols and rifles.
   b. For the protection and transfer of 3 regimental magazines with ammunition and material, 30 personnel armed as above.
   c. Medical units for the care and transport of wounded and evacuation of hospitals – unarmed.

8) The evacuation of wounded and sick soldiers of the AK, as well as of medical material, will be determined by the Medical Head of German forces in consultation with the Medical Head of the AK. The evacuation of medical personnel will be conducted in the same manner.

9) Soldiers of the AK shall be recognized by a white and red armband or pennant, or a Polish eagle, regardless of whether they are wearing some sort of uniform as well as civilian clothes.

10) The negotiators agree that transport, quartering, guards and protection over prisoners of war will remain in the control of the German Armed Forces (der Deutschen Wehrmacht). The German side will ensure that no task having to do with the soldiers of the AK will be carried out by any formation of foreign nationality.

11) Women, who in accordance with Part 1, point 6, are prisoners of war, will be housed in appropriate camps, either Oflags or Stalags. Women having officer ranks are the following: Młodsza Komendantka, Komendantka, Starsza Komendantka or Inspektor. Women prisoners of war, may upon their own wish be treated as the remainder of the population of Warsaw.

12) The German Military authorities will, without delay, inform the Prisoners of War Help of the YMCA in Śagan of the place and number of inhabitants of the AK camps and accompanying.

13) For the technical implementation of this agreement, SS-Obergruppenführer and General of the Police von dem Bach has three Polish officers at his disposal.

PART III

Anyone found guilty for any infringement of the decisions of this agreement will be held responsible.

Signatures

Von dem Bach Iranek Kazimierz, Col Dobrowolski, LtCol

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