

Prisoner Exchange in the Russian-Ukraine Conflict: A Juridical Analysis Under International Law

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Abstract

The background of this research is rooted in the ongoing conflict between Russia and Ukraine, which has resulted in significant casualties on both sides, affecting both military personnel and civilians. The conflict has also led to the capture of numerous prisoners of war by each side. Given these circumstances, the potential for a prisoner exchange agreement between the two nations has become increasingly relevant. This research analyzes the principles of international law governing prisoner exchanges during active conflicts. Employing normative legal research methods, this study reviews the application of various international laws and conventions, specifically focusing on the Geneva Conventions of 1949. The findings of this research suggest that while the Geneva Conventions' provisions on prisoner exchange remain applicable, their implementation in the current conflict is hindered by a lack of trust between the two countries. This distrust may necessitate reliance on extradition frameworks to address humanitarian law violations.

Keywords: Exchange; Prisoner; Russian; Ukrainian.

A. INTRODUCTION

In international law, "prisoner exchange" refers to the process of exchanging captured individuals, typically in the context of war or armed conflict involving two or more parties, whether states or belligerent groups. As defined by Mochtar Kusumaatmadja, international law comprises a set of rules and principles that govern relationships and issues across national borders, including matters related to prisoner exchanges ([Kusumaatmadja & Agoes, 2019](#)).

The process of prisoner exchange is a common practice during armed conflicts and is often closely associated with wartime conditions. This procedure is implemented to address humanitarian concerns and maintain certain standards of conduct among conflicting parties.

Under international humanitarian law, also known as the law of war, every country is obligated to adhere to principles designed to uphold humanity, even in times of conflict. These regulations cover various aspects of conduct in warfare, including combat procedures, treatment of the wounded, and the exchange of prisoners, among other humanitarian protections.

One of the most significant modern conflicts is the 2022 invasion of Ukraine by Russia. This conflict was fueled by a deteriorating relationship between the two nations, a dynamic that has worsened since the dissolution of the Soviet Union and Ukraine's establishment as an independent state. Key factors contributing to this tension include Ukraine's decision to sign the Treaty on the Non-Proliferation of Nuclear Weapons, its interest in joining the North Atlantic Treaty Organization (NATO)—which Russia perceives as a potential threat to its security—Russia's 2014

annexation of Crimea, and the emergence of pro-Russian separatist groups within Ukraine (D'Anieri, 2023).

On February 24, 2022, Russia launched a large-scale invasion of Ukraine, targeting the northern, eastern, and southern regions. The attack was sudden, as Russia declared war only after initiating military action. Consequently, both the Ukrainian government and military forces were unprepared, resulting in significant casualties.

Casualty estimates from the ongoing conflict vary widely depending on sources. Both sides report substantial losses, with Ukraine experiencing high numbers of military and civilian casualties, and Russia reportedly holding many Ukrainian military prisoners. As the conflict continues, these figures are expected to rise, particularly as the situation remains at a stalemate.

The absence of a mutually beneficial negotiation framework remains a key obstacle to ending the conflict. Currently, the most feasible compromise between Russia and Ukraine appears to be a temporary ceasefire and a prisoner exchange agreement (Fesenko, 2024).

Russia and Ukraine agreed to initiate prisoner exchanges starting in March 2022, an arrangement expected to continue through 2024. However, the implementation of these exchanges has faced significant challenges due to ongoing tensions and incidents arising from strained relations between the two countries throughout this period.

This research aims to assess the relevance of the Geneva Convention's legal framework for prisoner exchanges in the context of modern warfare, particularly in light of the deteriorating relationship between Russia and Ukraine. The objectives of this study are to analyze the legal basis governing prisoner exchanges in the Russia-Ukraine conflict and to examine the potential application of extradition laws to war crimes related to prisoner exchanges in this conflict.

B. METHODS

This research is based on a normative legal approach, focusing on various regulations, including international conventions and other legal provisions within the scope of international law. The methodology combines juridical and normative approaches through a literature review of secondary data, specifically examining international law regulations and related theories. This framework is applied to a case study of the ongoing conflict between Russia and Ukraine.

Through this approach, the research aims to compare the actual conditions of prisoner-of-war situations in the Russia-Ukraine conflict with the humanitarian provisions established by international law. This comparative analysis serves to highlight the extent to which established legal standards are followed and provides insights into how international regulations are applied or challenged in addressing such conflicts.

There has been limited research specifically addressing prisoner-of-war issues outside of hostage situations in the Middle East or major conflicts such as the World Wars. This study, therefore, seeks to fill this gap by focusing on prisoner-of-war exchanges in the context of the Russia-Ukraine conflict.

The data sources for this study are primarily secondary. Data collection involves gathering information from international legal regulations, legal literature, books,

research publications, and articles directly relevant to the research topic. The legal materials used are divided into primary legal sources, which serve as foundational guidelines for this research. These include the Geneva Conventions of 1929 and 1949, the European Extradition Convention of 1957, the Convention on Simplified Extradition Procedures of 1995, and other applicable aspects of International Humanitarian Law.

The secondary legal materials used in this research include resources that elaborate on primary legal sources, such as journals, articles, books, and relevant literature. Tertiary legal materials include reference works like the *Kamus Besar Bahasa Indonesia (KBBI)*, legal dictionaries, and encyclopedias, which provide further clarification and context for the primary and secondary materials.

Data processing in this study follows several steps. Initially, it involves analyzing various international legal frameworks related to prisoner-of-war provisions, including the legal basis and implementation of prisoner exchanges. The next step is to identify and assess key issues in prisoner exchange processes as observed in the field, particularly comparing these with the established legal frameworks. This approach helps evaluate whether current practices in the Russia-Ukraine conflict align with international legal standards and allows for the identification of critical points regarding the coherence between theoretical regulations and actual conditions in the field.

Finally, all gathered data is analyzed qualitatively, without the use of statistical or mathematical methods, relying instead on a legal research framework. This qualitative analysis enables the study to draw conclusions that can provide valuable insights into the application of international law to prisoner-of-war exchanges in contemporary conflicts.

C. RESULTS AND DISCUSSION

1. Analysis of the Legal Arrangements for Prisoner Exchange

The exchange of prisoners is a provision within humanitarian law, which governs the conduct of war and is outlined in the Geneva Conventions of 1949. Humanitarian law establishes legal protections for individuals affected by war, emphasizing humane treatment and the regulated exchange of prisoners.

According to Mochtar Kusumaatmadja, the law of war is divided into two primary areas:

- a) *Jus ad bellum*: This branch of war law addresses the conditions under which a state is permitted to use armed force. It outlines the justifications and limitations for entering into conflict.
- b) *Jus in bello*: This branch pertains to the laws applicable during warfare, focusing on two key areas: The conduct of war: Regulations that govern how hostilities are carried out, aiming to limit unnecessary suffering and destruction and Protection of victims of war: Rules that safeguard both civilians and military personnel who are no longer participating in hostilities, ensuring their humane treatment and protection from harm.

The provisions on prisoner exchanges fall under *jus in bello*, emphasizing the humane treatment of prisoners as an essential component of humanitarian law. This legal framework seeks to balance military objectives with the need to protect those affected by conflict, reinforcing the ethical and legal principles of warfare.

The provisions governing different aspects of warfare are addressed in separate conventions: the general laws of war are outlined in the Hague Conventions, while protections for war victims are established in the Geneva Conventions (Kusumaatmadja, 2002). This distinction underscores that issues concerning prisoners of war fall under the Geneva Conventions, which are integral to international humanitarian law, as they safeguard the rights of lawful combatants.

Since humanitarian law is a component of international law, the conflict between Russia and Ukraine can be assessed under relevant international legal provisions. This includes the jurisdictional authority of each state to enforce legal standards, the recognition of international legal subjects such as states and individuals, and considerations of state responsibility. State responsibility is particularly significant here, as it can be imposed when a state commits actions that cause harm to others, obliging it to adhere to international obligations (Samekto, 2009).

Individuals may become subjects of international law under specific conditions, particularly when they are implicated in war crimes or violations of international humanitarian law. This is relevant to the current prisoner-of-war situation in the ongoing conflict, where individuals might be held accountable for actions contrary to these legal standards.

According to Starke, humanitarian law sets boundaries within which force may be used to subdue an enemy, and it establishes principles governing the treatment of individuals during war or armed conflict (Setianingsih & Wahyuningsih, 2018).

Before addressing the legal regulations and practical application of prisoner exchanges between Russia and Ukraine, it is essential to provide a general overview of the ongoing conflict to contextualize the issues involved.

The conflict between Russia and Ukraine, which began on February 24, 2022, remains one of the most prominent ongoing wars globally. The initial trigger for the conflict was Russia's large-scale attack on Ukraine, justified by Russia on grounds that Ukraine's potential NATO membership could pose a security threat, particularly with the possibility of NATO military bases near Russian borders. Additionally, the 2014 annexation of Crimea and tensions over Donetsk contributed to the worsening relationship between the two countries.

Russia's sudden declaration of war and simultaneous attacks left Ukraine with little time to evacuate civilians or mobilize defenses, resulting in significant initial losses and the capture of numerous Ukrainian military personnel. However, by June 4, 2023, Ukraine was able to launch a counteroffensive against Russian forces, resulting in substantial Russian casualties and captures on the Ukrainian side.

While the conflict primarily involves military personnel, civilians have also been drawn into its impact. Civilians have occasionally been detained and used as leverage, increasing the pressure on both sides to agree to prisoner exchanges. This complex situation underscores the humanitarian challenges within the conflict and the role of international law in managing the treatment of detainees.

According to data gathered from a war report card on the Russia-Ukraine conflict, it is estimated that more than 130,000 Ukrainian military personnel lost their lives from 2022 to 2024, with an additional 3,337 Ukrainian soldiers detained by Russian forces. On the Russian side, approximately 200,000 military personnel are reported to have become casualties, while around 5,600 Russian soldiers are currently held as prisoners of war by Ukraine (Force, 2024).

The first prisoner exchange between Russia and Ukraine took place on March 17, 2022, initiated by Daria Zarivna, Chief Press Secretary for the Chief of Staff of the Ukrainian Presidency. Over the subsequent year, from February 2022 to February 2023, more than 2,000 prisoners of war participated in exchange programs.

According to reports from both sides, Ukraine secured the release of 1,596 prisoners from Russia, which included 1,464 military personnel and 132 civilians. In turn, the Russian Ministry of Defense confirmed that Ukraine released at least 800 Russian soldiers as part of these exchanges (Altun, 2024).

Although the reported figures vary across sources, a significant point of agreement between Russia and Ukraine has been the gradual implementation of the prisoner exchange program, even amid escalating tensions during the ongoing war. This program represents a rare instance of cooperation, highlighting a shared commitment to certain humanitarian principles despite the conflict.

However, the prisoner exchange process has not been without serious setbacks. Between 2022 and 2024, one notable incident occurred on January 24, 2024, when a Russian Ilyushin Il-76 aircraft, intended to transport Ukrainian prisoners of war as part of the exchange program, was destroyed by Ukrainian forces, resulting in the deaths of all prisoners onboard. This tragic event underscored the challenges and fragility of such exchanges in active conflict zones.

This incident heightened tensions between Russia and Ukraine, leading to an indefinite suspension of the prisoner exchange program. The primary reason for the suspension was each country's refusal to accept responsibility for the tragedy. The situation became even more contentious, as both sides accused each other of orchestrating the incident to sway international opinion: Ukraine alleged that Russia had intentionally shot down its own plane to impose blame on Ukraine and garner global support, while Russia claimed the plane was downed by a Western-made weapon commonly used by the Ukrainian military.

With neither side able to provide conclusive evidence, the prisoner exchange program resumed after a three-month hiatus. On May 31, 2024, Russia and Ukraine agreed to exchange 75 prisoners from each side, underscoring a shared, albeit fragile, commitment to humanitarian concerns over political distrust.

An analysis of this conflict under the framework of the 1949 Geneva Convention highlights key provisions related to prisoner exchanges, particularly as outlined in Article 3 and Articles 109 and 110. These articles set out specific conditions that must be met to conduct prisoner exchanges, beyond the mutual agreement of the two countries involved.

- a) Articles 109 and 110: These articles stipulate that the detaining authorities may withhold the release of prisoners of war, with certain exceptions. Notably, prisoners who are severely injured or ill are eligible for immediate repatriation or transfer to a neutral country to receive necessary care.
- b) Article 109: This article allows both conflicting parties to negotiate a prisoner exchange through an intermediary third party, facilitating a neutral pathway for reaching such agreements.
- c) Article 110: This article specifies that only individuals who continue to pose a potential threat may be held as prisoners of war. Those who are no longer capable of fighting, due to injury, illness, or other factors, must be repatriated.

These provisions collectively emphasize the humanitarian considerations embedded in the Geneva Conventions, prioritizing the safe and humane treatment of individuals in wartime, even within the complex dynamics of active conflict.

When examining the Russia-Ukraine prisoner exchange program in light of the Geneva Convention provisions, it becomes clear that the exchanges largely adhere to the basic requirements for repatriating prisoners of war. Specifically, the exchange process prioritizes the return of prisoners who meet conditions stipulated under Articles 109 and 110.

However, the exchange process has encountered several issues. A significant problem has been the high number of prisoners in poor physical and mental condition upon repatriation, resulting in an imbalance between those eligible for repatriation and those in a suitable state for exchange. This discrepancy reflects challenges in accommodating all prisoners within the program's humanitarian standards.

Reports from the United Nations Human Rights Monitoring Mission in Ukraine reveal widespread mistreatment of detainees by both sides, exacerbating the difficulties in ensuring prisoners' well-being. Of 159 interviews conducted with detainees held by Russian forces and 175 with those held by Ukrainian forces, the majority reported experiencing violence and harassment during detention ([OHCHR, 2022](#)). Such treatment further complicates efforts to conduct exchanges in accordance with international humanitarian principles.

This data is further supported by numerous videos circulated online, showing instances of intimidation, insults, harassment, and violence against prisoners held by both sides in the conflict. These actions show a disregard for the rights and protections mandated for lawful combatants under international law.

The alleged mistreatment of prisoners of war and the complications within the prisoner exchange program warrant investigation, as both Russian and Ukrainian detainees appear to have been subjected to abuse by the opposing side. Such treatment directly contravenes Article 12 of the 1949 Geneva Conventions, which holds the detaining power fully responsible for the treatment of prisoners of war in its custody. Article 13 further mandates that prisoners of war must be treated humanely and explicitly prohibits acts that could result in death or harm to their health.

The mistreatment reported in this context reflects clear violations of these provisions, underlining the need for accountability to uphold humanitarian standards and protect the rights of all prisoners involved in the conflict.

Several challenges hinder the effective implementation of the Geneva Convention's provisions in this conflict. Key obstacles include the difficulty in identifying individuals responsible for mistreatment, as the identities of those involved are often concealed, and a significant lack of trust between Russia and Ukraine. This mistrust has made joint investigations or collaborative efforts to uncover wartime violations nearly impossible.

Additionally, differing perspectives between the two nations have complicated matters further. Ukraine has largely focused on holding Russia accountable for alleged abuses during the prisoner exchange process and for the conditions prisoners endured while detained. Ukraine's position is shaped by its status as the defending nation in this conflict, which it perceives as justifying any measures taken to protect its sovereignty and citizens. This stance has created friction, as Ukraine

calls for accountability while Russia resists external scrutiny of its actions in handling prisoners of war. These factors collectively undermine efforts to address alleged violations and to uphold the humanitarian standards established by the Geneva Conventions.

From the Russian perspective, although they are the initiating party in the conflict, they are not exempt from the protections provided by the Geneva Conventions' humanitarian law provisions. Both sides have suffered significantly in this conflict, with each viewing themselves as victims of an ongoing and devastating war.

In conclusion, without conclusive evidence of specific violations of the Geneva Conventions and without a mutual commitment from both nations to investigate allegations of mistreatment of prisoners of war, enforcing these humanitarian standards remains challenging. Meaningful accountability, including potential trials for violations, is unlikely until the conflict ultimately reaches a formal resolution.

2. Application of Extradition for War Crimes Prisoners

Extradition refers to the formal process of surrendering an offender to the state where the crime was committed, for the purposes of trial and punishment. This process is typically carried out under an established extradition treaty or based on a reciprocal relationship between the states involved (Parthiana, 2004). Extradition applies to individuals suspected of committing a crime or those who have already received a final and binding sentence in the state where they currently reside, allowing them to be transferred to a state with the appropriate legal authority to prosecute.

The concept of extradition is also relevant to international humanitarian law. Article 8, Section 2(a) of the 1949 Geneva Conventions classifies war crimes as grave breaches of the Convention, involving actions against persons or property protected under its provisions. This reinforces that individuals accused of war crimes may be subject to extradition, ensuring accountability for violations of the Geneva Conventions.

There is a potential connection between jurisdiction for prosecuting individuals who commit crimes in a foreign country and the prosecution of violations of the Geneva Conventions, such as the mistreatment of prisoners of war in the Russia-Ukraine conflict. When crimes involving prisoners of war are considered as war crimes, they fall under the international laws and customs of war, as established by conventions such as the Hague Conventions. War crimes include actions like the mistreatment of prisoners, forced labor, deportation, and other violations outlined in the law of war.

A defining feature of war crimes is the targeting of civilians by combatants. According to Article 8(2)(b) of the Rome Statute of the International Criminal Court, war crimes include intentionally attacking civilian populations, civilian objects, or humanitarian personnel and facilities. It also encompasses launching attacks with the knowledge that they will likely cause incidental harm to civilians (Bufacchi, 2023). These provisions underscore the importance of international legal frameworks in holding individuals accountable for actions that violate humanitarian law, regardless of nationality or the location of the crime.

War crimes are categorized as individual responsibilities, rather than state responsibilities, due to the lack of state intent or authorization behind these actions. When an individual who is part of a state organ commits a war crime, it does not

automatically imply that the action reflects the intent or policy of the state as a whole. Therefore, such acts are treated as personal actions rather than as expressions of state will.

As a result, the individual may be held accountable under international law, without attributing the crime to the state itself, even if the affected state seeks justice. According to F. Mann, jurisdiction allows a state to regulate conduct under international law in matters not solely confined to domestic issues, supporting the notion that states have a right to prosecute individuals for war crimes as violations of international norms ([Hadiwijoyo, 2011](#)). This framework allows for personal accountability in cases of war crimes, while safeguarding the state from blanket responsibility for individual actions.

A prisoner of war who is alleged to have committed a war crime, thereby violating the Third Geneva Convention, may lose their protections as a lawful prisoner of war. Such an individual, deemed an unlawful combatant, forfeits both the combatant's privilege and the protections granted under the Third Geneva Convention ([Crawford, 2010](#)).

However, determining whether an individual is guilty of a war crime is complex. This process can be challenging due to insufficient evidence and variations in protocols that establish a combatant's rights and status as a prisoner of war. Consequently, an individual who has been captured must initially be granted prisoner-of-war status until a competent court makes a formal determination on their alleged crimes ([Hasan & Haque, 2023](#)).

Perpetrators of war crimes are subject to legal accountability and cannot avoid punishment once they have been proven guilty; they are thus prosecuted as war criminals rather than treated as regular prisoners of war.

In the ongoing conflict between Russia and Ukraine, there is considerable potential for war crimes on both sides. Civilian casualties, the involvement of non-combatants as victims and prisoners of war, and attacks on prohibited targets—such as nuclear power plants, schools, hospitals, and other civilian infrastructure—are among the concerning impacts. Additionally, both Russia and Ukraine have reported that some returned prisoners were in poor condition following exchanges, and incidents like the shooting down of the Il-76 aircraft further illustrate the risks and challenges associated with managing wartime conduct and prisoner exchanges. These examples highlight the need for accountability and adherence to international humanitarian law.

According to Article 8, Section 2(b)(iii) of the 1949 Geneva Conventions, war crimes include attacks on personnel and vehicles involved in humanitarian assistance activities. In this context, the humanitarian activity refers to the prisoner exchange program agreed upon by Russia and Ukraine. However, the attack on the plane transporting Ukrainian prisoners for repatriation, resulting in the loss of all lives onboard, directly violates this provision.

To address this violation, it is crucial to identify the party responsible for ordering or executing the attack. If an individual is proven to have committed a war crime, they should not be eligible for repatriation through a prisoner exchange but may instead be subject to extradition. This would allow the detaining country to prosecute the individual for the crimes committed, upholding accountability under international law.

The extradition of war crimes perpetrators to ensure justice requires analysis

of relevant legal frameworks. Article 99 of the 1949 Geneva Conventions stipulates that no prisoner of war can be sentenced without proof of guilt under established legal standards in accordance with international law.

In cases where an individual is alleged to have committed a war crime, they are typically held by the detaining state. However, Ukraine's legal framework poses specific challenges in this regard, as its criminal code currently lacks the necessary provisions for prosecuting war crimes. This gap, as noted ([Kaplina, 2022](#)), highlights that Ukraine's Criminal Code does not contain adequate normative regulations for the classification and prosecution of war crimes committed during the conflict, revealing a need for legislative adaptation to handle such cases effectively.

As a result, Ukrainian law enforcement may be unable to prosecute alleged war crimes independently, even with substantial evidence, due to gaps in its domestic legal framework. In such situations, the International Criminal Court (ICC) can step in to support Ukrainian authorities, working collaboratively to hold accountable those accused of war crimes ([Ablamskyi et al., 2023](#)).

In a statement released on March 2, 2023, ICC Prosecutor Karim A.A. Khan announced that the ICC had launched a comprehensive investigation into alleged war crimes committed in Ukraine, examining both historical and current incidents in the conflict. This initiative underscores the ICC's commitment to addressing violations of international law and ensuring accountability in Ukraine.

Following that statement, the International Criminal Court (ICC) issued arrest warrants for several high-ranking Russian officials suspected of violations, focusing on those with significant authority over state actions during the conflict.

However, the ICC has not yet launched an investigation specifically into potential war crimes related to the mistreatment of prisoners of war or incidents in the prisoner exchange program. Notably, this includes the downing of the Russian IL-76 aircraft during a prisoner exchange, for which there has been no formal resolution.

In cases of war crimes, extradition provisions under the European Extradition Convention provide an exception to standard military law, allowing extradition to apply even in wartime contexts. Although extradition generally pertains to conventional crimes, these provisions can extend to war crimes, enabling international accountability mechanisms to operate within the scope of humanitarian law.

D. CONCLUSION

The prisoner exchange program in the Russia-Ukraine conflict has largely met the basic requirements outlined in the 1949 Geneva Convention, which prioritize the repatriation of prisoners who are sick or unable to continue contributing to the war effort. However, several shortcomings have affected its implementation. Key issues include poor treatment of prisoners, including reports of physical abuse by both sides, and the incident involving the downing of the IL-76 aircraft, which was part of the prisoner exchange process. This incident led to a months-long suspension of exchanges, and even after resumption, the program continued on a smaller scale.

Additional factors have hindered the full protection of prisoner-of-war rights, contributing to the relatively low numbers of exchanged prisoners compared to the total captured by each side. Differing perspectives between Russia and Ukraine, particularly regarding accountability for incidents that disrupt the program, have

further complicated the exchanges, as neither side has been willing to assume responsibility for actions that jeopardize the process. These challenges underscore the need for stronger mechanisms to uphold humanitarian standards and ensure that prisoner exchange programs can operate effectively, even in high-conflict environments.

Despite the regulatory framework of the Geneva Conventions, violations of international humanitarian law appear to have occurred in the Russia-Ukraine conflict, particularly under Articles 12 and 13, which mandate the humane treatment of prisoners. These violations have contributed to a high number of prisoners in poor condition, many of whom cannot be repatriated due to the limited number of prisoner exchanges conducted between the two nations.

While extradition provisions, typically applied to general crimes, could theoretically be used in this conflict, particularly for individuals accused of war crimes, there are specific constraints. Article 99 of the Geneva Conventions allows for the prosecution of prisoners of war who have committed war crimes, meaning that war criminals captured by the opposing side would be excluded from regular prisoner exchanges and instead could face charges for violating humanitarian law.

A significant barrier to enforcing extradition, however, is the perceived lack of neutrality in international organizations that would oversee investigations and hold accountable both parties in the conflict. This lack of impartial oversight has led to a situation in which neither side can be reliably held accountable for violations occurring during the conflict, limiting the effectiveness of both prisoner exchange and extradition as tools for justice in this context.

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