



APPENDIX B: LAW OF WAR

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The law of war is part of the international law that regulates the conduct of armed hostilities and consists of treaties, regulations, rulings from international courts and tribunals, as well as the accepted practices of nations referred to as “customary international law.” Violations of the law of war are punishable under the Uniform Code of Military Justice. The law of war is also sometimes referred to as the law of armed conflict or international humanitarian law. Medical forces are subject to special protections and obligations under the law of war.

The law of war serves to protect members of the civilian population from the direct effects of battle by making a distinction between those who take part in the fighting, (commonly referred to as combatants) and those who do not, primarily individual civilians and the civilian population as a whole. It further provides for the protection of military wounded, sick, and shipwrecked, and respect for military medical personnel, medical units, and transports. Certain categories of medical and religious personnel should be respected and protected during military operations. The categories of medical personnel who are entitled to respect and protection during military operations include:

- ✦ Military medical personnel exclusively engaged in medical duties.
- ✦ Administrative staff exclusively engaged in support to medical units.
- ✦ Auxiliary medical personnel, if they are carrying out their medical duties at the time when they come into contact with the enemy or fall into the enemy’s hands.
- ✦ Authorized staff of voluntary aid societies.
- ✦ Staff of a recognized aid society of a neutral country.
- ✦ Religious, medical, and hospital personnel of hospital ships and their crews.

Medical facilities are protected from attack provided they are exclusively engaged in their humanitarian function. However, if they are used in a manner inconsistent with their function (e.g., used to store weapons or as a staging area to launch an attack from) they may forfeit their protected status and may be attacked. Commanders should

ensure medical forces resources and facilities, including mobile units, are situated in such a manner that attacks against military objectives cannot imperil their safety. In an international armed conflict, the Geneva Conventions define captured permanent medical forces personnel as “retained personnel,” not as prisoners of war (POWs). However, performance of combat-related functions, such as ambulance drivers ordered to carry ammunition to a forward unit, would result in such personnel being POWs upon capture. POWs may be detained until the end of hostilities, whereas retained personnel are held by the enemy to perform their medical duties for as long as the state of health and the number of POWs require. By contrast, medical retained personnel are repatriated when their services are no longer indispensable and operational circumstances permit.¹⁵

There is a further category, “auxiliary” medical force personnel, defined as those members of the armed forces who are specially trained to act, when the need arises, as “temporary” hospital orderlies, nurses, litter-bearers, etc. In this context, “temporary” means the exclusive discharge of medical duties or functions for limited periods. Auxiliary medical force personnel should wear a brassard (armband) displaying the distinctive emblem (e.g., Red Cross) only while carrying out medical duties. Auxiliary medical forces personnel are entitled to protection as noncombatants only if they are executing medical duties at the time contact is made with the enemy and are not otherwise engaged in acts harmful to the enemy. Auxiliary medical forces personnel should not be targeted while carrying out their medical duties, but if captured during international armed conflict they become POWs rather than retained persons. Consequently, they have no expectation of repatriation prior to the end of hostilities. For more information, see Air Force Instruction 51-401, [The Law of War](#), and Department of Defense (DOD) Directive 2311.01E, [DOD Law of War Program](#).

Geneva Conventions

The US is a party to the four Geneva Conventions of 1949 and all medical and line of the Air Force forces should thoroughly understand the provisions that apply to medical activities. Violations, which can result in the loss of the law of war protection, occur when medical forces, or their distinctive emblem(s), are used or engaged in any activities inconsistent with a noncombatant role. For example, performing entry control point and static resource guard duties for non-medical units are both duties inconsistent with noncombatant status. Other examples include guarding or helping to defend the perimeter of non-medical facilities, such as unit trains, logistics areas, or base clusters; the manning of any offensive-type weapons or crew-served weapons systems; or being ordered to engage enemy forces other than in self-defense or in the defense of patients, facilities, and the supplies and medicines used to treat those patients.

Current and future conflicts may pose additional issues because adversaries within non-state organizations are neither signatories nor adherents to the Geneva Conventions. Some irregular tactics of adversaries include deliberate attacks against military and

¹⁵ Joint Publication 3-63, [Detainee Operations](#).

civilian medical, health, and humanitarian personnel and assets. Even within this environment the US military adheres to and honors the law of war at all times. For more information on law of war, see [Department of Defense Law of War Manual](#); [The Military Commander and the Law](#); [Air Force Operations and the Law](#); JP 4-02; [Joint Health Services](#); JP 3-63, [Detainee Operations](#); and US Code Title 10, [Armed Forces](#).

Possible Consequences of Violating Geneva Conventions

- ✦ Risk that protected status for the medical unit and personnel will be forfeited.
- ✦ Risk that medical facilities and evacuation platforms (including aircraft on the ground) are attacked and destroyed by the enemy.
- ✦ Risk that medical personnel being treated as POWs rather than retained personnel and risk of them possibly being tried and punished for war crimes.
- ✦ Criminal prosecution for grave breaches of the Geneva Conventions.

Examples of Violations of the Geneva Conventions

- ✦ Making medical treatment decisions for the wounded and sick on any basis other than medical priority, urgency, or severity of wounds.
- ✦ Marking non-medical unit facilities and vehicles with the distinctive emblem (e.g., Red Cross) or making any other unlawful use of this emblem.
- ✦ Using medical vehicles marked with the distinctive emblem for transporting non-medical related troops, equipment, and supplies.

Detainee Operations

Medical forces should be prepared to provide medical care and treatment to a variety of individuals being detained by US forces on operations. Wounded and sick detainees should be cared for. They should receive the medical care and attention required by their condition. Medical or biological experiments on detainees are prohibited.

- ✦ **Consent.** Medical care should, wherever possible, be undertaken with the consent of the wounded or sick detainee. However, medical actions to preserve the health of the detainee may be justified, even when the detainee refuses to provide consent. For example, it is not prohibited to administer vaccinations to detainees in order to preserve their health and to prevent epidemics. Similarly, it is not prohibited to order detainees to be fed, if they undertake a hunger strike.
- ✦ **Blood Donation and Skin Grafting.** Detainees may voluntarily consent to give blood for transfusion or skin for grafting for therapeutic purposes; such procedures, standards and controls are designed for the benefit of both the donor and the

recipient. See Department of Defense Instruction 2310.08E, [Medical Program Support for Detainee Operations](#).

Self-Defense

Medical forces may carry only light individual arms for their own defense and the defense of the sick and wounded in their charge. This does not mean they may fire on an advancing enemy. However, if the enemy is attacking and ignoring the marked medical status of the personnel or facility, personnel may consider using force (though the dangers of being viewed as a combatant should be self-evident). In addition, medical forces may defend medical personnel, facilities, and patients from violent criminal elements, and even from unrest within the facility. For more detailed information on the law of war and the Geneva Conventions, please refer to the following publications: [The Military Commander and the Law](#); [Air Force Operations and the Law](#); Joint Publication 4-02, [Joint Health Services](#), and US Code Title 10, [Armed Forces](#).
