Bring Them Home: Creating Humane & Enforceable POW Parole System

Introduction

Paroling prisoners of war – i.e., allowing them to spend their internment in a neutral country or even in their own one provided they abstained from participating in any military activity – was almost universally discontinued at the beginning of the 20th century. There are, however, several strong moral reasons for restoring the practice of parole, while the putative reasons against doing so do not withstand scrutiny. Moreover, though there are practical obstacles to reinstating the practice of parole, these can be overcome with the help of contemporary technology and self-enforcing international agreements. As the issue of parole's availability is of major importance to the well-being of thousands, if not millions, of present-day and future POW, I develop and defend these points, outlining the shape the practice may take today.

I proceed as follows. First, I provide definitions of 'parole' and other key terms, laying out the current legal status on the matter, and describing the existing gap in ethical research that this article attempts to fill. Section II then makes the ethical case for parole. In Section III, I address objections to parole's reintroduction. Section IV explores certain practical difficulties of creating enforceable and therefore viable parole arrangements, and the ways of overcoming these difficulties. Section V acknowledges limitations of my approach and indicates questions that still need to be answered, after which, I conclude.

Definitions. Gary Brown defines POW parole as "releasing a prisoner of war in return for a pledge not to bear arms" (1998, 200); Emily Crawford as "an agreement on the part of the captive soldier to refrain from participating in hostilities, in return for limited or unrestricted release from POW captivity" (2023, 235); the International Committee of the Red Cross 2020 Commentary to the Third Geneva Convention (henceforward: the Commentary of 2020) follows William Flory in defining it as "the promise of a prisoner of war to the detaining state that his conduct will conform to the prescriptions specified, given voluntarily in consideration of a grant of freedom of action" (2020, ¶1951). For the purpose of this article, I define parole as a POW's legally and morally binding promise not to take part in hostilities or serve in the armed forces until the end of the conflict, made in exchange for being released from captivity. The addressee of this promise is the power that detains them – i.e., the detaining power[1]. POW must be legally allowed to make such a promise by their own government[2] if the parole system is to benefit them, and of course parole must be offered by the detaining power. I will argue that both offering parole to enemy POW and allowing own POW to give their parole should be the default position taken by governments.

Specific parole arrangements can be further divided into internment in a neutral country, which I dub neutral country (NC) parole, and home country (HC) parole, when POW are allowed to stay in a country they fought for, perhaps even in their very homes. If the paroled POW are constrained to a specific location, I call it constrained parole; if they can move freely within the confines of a country (but of course outside the active warzone), their parole is

[1] While taking part in hostilities and serving in the armed forces are defined in International Humanitarian Law with some precision, the broader category of aiding the war effort is not. Paroled POW could aid their country's war efforts directly or indirectly through various activities, and the detaining power could object to them engaging in some or all of these. Such arrangements should be subject to specific parole agreements and could differ between them; for the purposes of this article, we may bracket this issue. Similarly, the issue of whether a paroled POW could serve in unrelated conflict against another power may be left to the state parties of specific parole agreements, although the issue of fungibility makes permissions for such activity unlikely.

[2] POW' own government or state is sometimes referred to as "the power on which they depend", or depending power, within international law. Since the latter phrase is easy to confuse with "detaining power", I will refrain from using it.

unconstrained. When parole is granted already on the battlefield, I call it battlefield parole. If the prisoners are evacuated from the warzone and processed before receiving their parole, I call this post-processing parole.

Legal situation. While this paper is concerned with ethics and so presents only ethical claims, and not legal ones, understanding the current legal status of parole is important for several reasons. First, International Humanitarian Law (IHL) has been a vehicle of humanitarian advancement for the last two centuries, and so the law itself and its accompanying discourse can indeed be a source of moral guidance (Luban 2017, 434). Secondly, many humanitarian-minded proposals regarding warfare have to deal with the fact that their introduction would necessitate changes to IHL itself, a painstaking process requiring widespread international consensus. Paroling POW, however, is already facilitated and to a degree encouraged by the Third Geneva Convention of 1949, and therefore this powerful practical obstacle is removed. Last but not least, it is almost exclusively legal scholars who in recent years promoted the reinstitution of parole in various contexts (Brown 1998; Crawford 2023; Jensen 2005; Jenks & Jensen 2011; Wylie & Cameron 2019).

Both granting and accepting parole is explicitly facilitated by Article 21 of the Third Geneva Convention[3]. Crucially, parole may only be granted if a POW is legally allowed to accept it by their country, and its acceptance cannot be forced upon a POW by the detaining power. Parole is also explicitly encouraged by Article 109. The latter not only allows but obliges detaining powers to grant NC parole or even repatriate severely wounded, disabled or sick POW[4] (Commentary of 2020, ¶ 4269). It also specifically provides for the possibility of either neutral country or home country parole for POW who have been subject to prolonged captivity[5], a term that is undefined but which the WWI practice of states and the Commentary of 2020 seem to set at 18-24 months (Commentary of 2020, ¶ 4288-4290, 4293).

These provisions are rooted in the fact that, as stated by the ICRC Commentary, "the authority of the Detaining Power to intern prisoners of war is not unlimited. Article 109 strikes a balance between the need to intern military personnel and humanitarian considerations" (Commentary of 2020, ¶ 4245). The POW are to suffer the burdens of internment only in so far as this is inevitable for keeping them from rejoining the fight: "Internment is a preventive measure (…) the restriction of liberty of prisoners of war under the authority of this provision has no punitive character" (Commentary of 2020, ¶ 1932-33). This purely preventive status of internment is confirmed both by authors who tend to emphasize humanitarian concerns (Melzer 2016, 182-4) and by those who tend to be more protective of the prerogatives of military necessity (Solis 2016, 204). Thus, the law recognizes the ethical claim that a POW who is unnecessarily interred and so exposed to numerous dangers of captivity is wronged, and contains mechanisms to prevent this wrong.

The Gap in Ethical Literature. Given that parole has been an instrument preventing needless internment of large numbers of innocent people, it is surprising that the discontinuation of the practice and the reasons behind it have been subject to so little scrutiny and critique, and no

[3] "Prisoners of war may be partially or wholly released on parole or promise, in so far as is allowed by the laws of the Power on which they depend. Such measures shall be taken particularly in cases where this may contribute to the improvement of their state of health. No prisoner of war shall be compelled to accept liberty on parole or promise." https://ihl-databases.icrc.org/en/ihl-treaties/gciii-1949/article-21

[4] "Throughout the duration of hostilities, Parties to the conflict shall endeavor, with the cooperation of the neutral Powers concerned, to make arrangements for the accommodation in neutral countries of the sick and wounded prisoners of war referred to in the second paragraph of the following Article." https://ihl-databases.icrc.org/en/ihl-treaties/gciii-1949/article-109

[5] "They may, in addition, conclude agreements with a view to the direct repatriation or internment in a neutral country of able-bodied prisoners of war who have undergone a long period of captivity."

ethical critique whatsoever. Although allowing POW to be paroled was deemed unproblematic (Grotius 1625, chapter XXIII, VII.2, 1629), or even a laudable development (Vattel 1758/2008, 553) by preeminent thinkers of the early modern period, the dismantling and subsequent vilification of the custom has not met with much philosophical or legal opposition. This remained the case even as humanity transitioned out of the dark era of 20th century total war. While recently some legal scholars challenged the assumptions behind disallowing POW parole (Brown 1998, Crawford 2023), these voices are still scarce, and do not seem to resonate amongst ethicists or philosophers of war or in the broader humanitarian discourse. Indeed, the search of top ethical journals renders no articles focusing on this issue[6]. Consequently, the early 20th century anti-parole attitudes, based on assumptions and judgments that have been almost universally rejected since (Wylie & Cameron 2019, 1332), are entrenched in national law of many countries, including Western powers that otherwise have gravitated towards a much more humane vision of warfare and warfighting[7]. This article aims at closing this problematic gap in the literature by delivering a comprehensive critique of the status quo and calling for bringing it up to date with the norms and values that generally pervade the legals systems and the armed forces of liberal democracies.

Section I – The Case for Parole

There are substantial and numerous reasons that call for reinstitution of parole as a legitimate and widespread military practice. Assuming an enforceable and stable system of parole could be created (a proposition I argue for in later sections), POW would be spared a long period of captivity in conditions that in many respects are, or are very likely to be, inferior to those suffered by imprisoned criminals. Even a POW camp that adheres to all the requirements of the Third Geneva Convention is, and has to be, a prison, the only positive difference being the company of fellow soldiers instead of criminals. There are, however, substantial negative differences. First of all, absent the possibility of parole or exchange, the period of internment is, by definition, indefinite, as the duration of hostilities cannot be predicted. Secondly, unlike ordinary prisoners, POW usually cannot be visited by family and friends, as the continuing state of war between the respective countries makes such visits difficult if not impossible to arrange. These two factors, especially when combined, can be psychologically devasting to POW and their loved ones, making for an experience more brutal than almost any to be suffered by individuals or families in civilian life. While cruel in itself, this experience can generate other extremely harmful outcomes – mental and physical illness, family break up, or psychological and developmental and relationship difficulties spurred by parental absence[8]. Consequently, persons who are by definition innocent of crimes are being subjected to treatment much worse than that we mete out to criminals[9]. Absent actual military necessity, which is absent when enforceable parole is an option, this grave and prolonged harm finds no justification.

---

[6] For example, no article regarding the issue has ever been published in *Philosophy & Public Affairs, Ethics, Journal of Applied Ethics, Ethics & International Affairs, Journal of Ethics, Ethical Theory & Moral Practice,* or even in the specialist *Journal of Military Ethics* or *International Review of the Red Cross*.

[7]As documented in the ICRC Commentary (¶ 1955, footnote #55), the members of Canadian, Chilean, Dutch, British and US armed forces are explicitly prohibited from accepting parole; the list is by no means exhaustive.

[8] For a qualitative study of the latter two issues in the non-aggravated conditions of ordinary incarceration see Comfort et al. 2016. Recognition of combatants' psychological trauma as an evil of war to be recognized and when possible limited is extensively argued for by Wood (2024).

[9] While some POW may be guilty of war crimes or ordinary crimes, universal treatment of all POW cannot originate in such sporadic individual culpability.

Captivity's inherent harmfulness by itself constitutes a powerful and sufficient reason to establish a functioning parole system. Yet there are other powerful reasons for bringing back parole. As mentioned, even internment that is completely in line with IHL prescriptions is inherently harmful. On top of that, the legal protections of POW are quite commonly and sometimes egregiously violated. Prisoners of war are extraordinarily vulnerable to negligence and abuse, often in the extreme (Bogner 2022; Brown 1998, 217-218), and being a signatory of the Geneva Conventions has historically not stopped countries from becoming abusers. It is possible to abuse prisoners of one nation while treating prisoners from another rather well[10], and it is also possible for a country to revert to contemptible practices after having established a relatively decent track record of IHL compliance. Even a military organization sincerely committed to following the law is bound to contain persons who will abuse prisoners on their own initiative, and so the risk of abuse can never be entirely eliminated. In all too many cases, captivity and the captors inflict much more harm than is legally allowed[11].

Conscientious Captor's Dilemma. This third reason is related to the tendency for POW abuse, and the essential unpredictability of such abuse. No combatant can, on their own, oversee the entirety of a surrendering enemy's detention. Thus, no combatant has control over his organization's treatment of POW, and yet every combatant may be confronted with a legitimate surrender by an enemy expecting to be treated according to the law. If the captor knows, or strongly suspects, that his captive will not be humanely treated after being transferred to the rear, or after being transferred into the care of an allied force, they face a moral dilemma. If captors were able to offer his captive battlefield paroles and be sure that its conditions are enforceable, they would not have to depend on other agents to treat their captives rightly, and could do fairly by them on their own.

Captors' Perverse Incentives. There exists, from a purely military perspective, an ever-present incentive not to take prisoners, at least when no one is watching. If a prisoner of war can revert to his status as an active combatant as soon as one is incapable of guarding him, then it always is, from a purely military perspective, better to kill an enemy than to capture him. The more uncertain one is of his ability to safely escort prisoners to the rear and keep them detained, the more the temptation grows. This perverse incentive becomes truly substantial in combat operations behind enemy lines, as transporting prisoners to the rear is impossible, and setting them free may endanger the captors (McMahan 2007, 102-3; Walzer 1977/2006, 305). A mechanism that would enable POW to instantly accept parole and gain the not so easily reversible status of captive-on-parole would remove the perverse incentive to kill all those who cannot be retained as prisoners. Analogous reasoning can be conducted for the neglect of POW inside internment camps.

Surrendering to Aircraft. The issue of ground troops surrendering to aircraft is problematic, and has remained unresolved for a hundred years now. Theoretically, surrendering to aircraft is possible: "an individual on the ground or at sea who surrenders to an aircraft must stay visible to the aircraft and obey any instructions given until he/she can be taken into custody by any aircraft, vessel or ground forces called to the scene by the capturing aircraft" (Dinstein & Dahl, 103(e), p. 102). Yet, as stated by the same group of legal experts in the Oslo Manual: "Surrender by ground forces to aircraft raises problems of factual impracticability in the taking of such persons into custody. (…) According to some of the Experts, the possibility of the taking

[10] As evidenced by the difference between the treatment of British and Soviet prisoners by Nazi Germany – the latter were 15 times more likely to die or be murdered in captivity (Ferguson 2004, 187).

[11] It is important to note that the harm in question is usually both immediate and long lasting, with many POW profoundly affected for decades after their imprisonment (Ursano & Bendek 2003).

of such persons into custody is irrelevant to the genuineness of the offer to surrender. Another view would preclude ground forces from gaining *hors de combat* status vis-a-vis an aircraft because an offer to surrender cannot be genuine when it is factually impossible for the opposing party to accept. According to an intermediate view, the validity of the offer by forces surrendering to an aircraft has to be determined on a case-by-case basis (e.g., when there is an effective possibility of capture owing to the proximity to the contact zone)." (Dinstein & Dahl, 104, pp. 103-4).

As reliance on airpower has grown, and especially with the proliferation of low-cost combat drones, the number of engagements subject to this controversy has become increasingly more significant, and yet both legal solutions proposed are highly unsatisfactory. To believe, with the authors of the Oslo Manual, that "the offer of surrender by ground forces to an aircraft may be invalid if taking the forces into custody is not feasible in the prevailing circumstances", is to accept that a significant portion of engagements happening in modern warfare should be fought with no quarter being effectively given. Such a legal situation already obtains with respect to the crews of aircraft while airborne and to the crews of submarines when submerged (Sparrow 2015, 718; Oslo Manual, 103(a), p. 101). Yet such crews form a very small portion of all combatants and are usually formed of volunteers with elite training who accept the risk as a price of gaining a significant military advantage. None of this can be said of the mass of ground forces who become similarly vulnerable under this interpretation, and not in virtue of gaining an advantage, but rather of *their enemy* gaining one.

On the other hand, it is hard to accept a claim that by merely laying down arms and raising their hands combatants become invulnerable to attack by airpower, even though no detrimental consequence to either them or the military potential of their party follows from such a "surrender". This interpretation would go against the principle that a prospective captor, by accepting surrender, should gain by removing an enemy off the battlefield – that is, that the captor should not be made worse off by following the law. It would also be tantamount to making anti-personnel use of air power illegal, except when in direct support of advancing ground troops. Such an interpretation is obviously not a part of customary law, given widespread state practice to the contrary. Retroactively imposing it on treaty law is likewise impossible, as is convincing major military powers to explicitly agree to such a self-imposed restriction.

The institution of parole offers a way out of the deadlock. If aircraft could parole those being bombed, either as individuals or as units at the behest of the unit commander, the problem would disappear. While the issue of battlefield parole enforcement raises concerns to be addressed later, the technical details of surrendering to aircraft must be addressed immediately. Unlike frontline infantry, an aircraft pilot cannot collect the biometric data of individual surrendering enemies. Instead, some electronic communication between the aircraft and surrendering ground troops would have to take place. The soldiers or their commander would have to be equipped with a surrender beacon capable of transmitting both their request to surrender and the identifying data of their unit, and the aircraft would need to be equipped with a device capable of receiving that signal and confirming its authenticity (Sparrow 2015, 716-7). Surrender beacons would need to record the fact of surrender in a way similar to an aircraft's black box recording of a catastrophe, and tampering with that record would have to be made both technically difficult and severely sanctioned legally. While much technical and legal work would have to be done on the issue, there is in principle no obstacle to its potential success.

Surrender to Autonomous Weapons. Leading military-technological powers also have a strong incentive to develop surrender beacon technology, given that they are among the chief

pursuers of Autonomous Weapon Systems (AWS), combat robots able to make targeting and engagement decisions without direct human input or supervision. Many ethicists and legal scholars working on the topic claim that in order to be legal and morally acceptable, AWS would have to be capable of recognizing and accepting surrender (Amoroso &Tamburrini 2017, 6; Asaro 2008, 60-62, Egeland 2016, 95)[12]. Yet because basic perception is proving to be one of the hardest human abilities for AI to master, there is no telling if or when AWS will be able to reliably discern standard surrender gestures, such as putting down one's weapons and raising one's hands[13]. Surrender beacons present a promising solution to the problem, as robots should have no issue recognizing and respecting such a surrender signal. Yet as long as the use of surrender beacons is not a practice required by IHL, AWS would be required to recognize universally accepted forms of surrender, including those that they may struggle to perceive. This may prevent their use in counter-personnel strikes or force them to target more conservatively and accept more risk when attempting to ascertain the legal status of a targeted combatant.

As the use of AWS would generally benefit major, technologically advanced powers, but the ability to surrender to aircraft would benefit less technologically advanced parties most, an agreement between the two groups of actors seems feasible, with each agreeing (for different reasons) to the introduction of surrender beacons as a universally recognized form of surrender required of combatants trying to surrender to aircraft and robots. The use of surrender beacons, in turn, requires the existence of the institution of battlefield parole in some form.

As demonstrated, there are strong moral reasons to reintroduce a system of parole: internment's inherent harmfulness, risk of abuse, the existence of perverse incentives to give no quarter or to neglect prisoners and the current paradigm's inability to deal with surrender to aircraft or autonomous weapon systems. Some of these issues, such as the risk of abuse and isolation from one's family, can be eliminated or at least assuaged by any form of parole. Others, such as the removal of perverse incentives or enabling surrender to aircraft or AWS, require the introduction of a viable form a battlefield parole. Every single one of them is, however, worthy of addressing, and absent compelling counterarguments, they constitute a powerful defense of parole as an institution.

Section II – Arguments Against Parole

The central worry concerning the re-introduction of parole is centered on practical difficulties with its enforcement (to be discussed in Section III). However, more fundamental problems

[12] Establishing whether this claim is correct in its strong form, that is, in regard to all AWS and in all circumstances of use is beyond the scope of this paper, and for its purposes I suspend judgment on its validity. Whether valid or not, this claim is certainly widely endorsed in relevant literature, and indubitably significant in virtue of being so.
[13] Reports that a certain South Korean autonomy-enabled machine-gun turrets have made their way into some reputable publications (Boulanin and Vebruggen 2017, 45). However, these are ultimately traceable to an unsigned article titled "Samsung Techwin SGR-A1 Sentry Guard Robot" accessible at www.globalsecurity.org/military/world/rok/sgr-a1.htm The article claims to be based on pronouncements made by officials of the South Korean Ministry of Commerce, Industry and Energy. However, even if such or similar claims were indeed made by South Korean industry or government representatives, 12 years after they were supposedly made no independent attempt to verify them has ever been made, and the weapon in question has been officially retired. These and similar claims need to be treated with caution and skepticism absent independent and methodologically sound verification.

with the practice have also been alleged, and these need to be discussed first. Perhaps a functioning parole system would inherently and necessarily be a source of detrimental consequences or serious wrongs, bad enough to outweigh any benefits of its reintroduction. If this were so, discussions about the practicability of its enforcement would be moot. Thus it is critical to first show that any objections of this type do not suffice to outweigh the benefits outlined in Section I.

It is rare for objections to parole to be voiced explicitly, but a survey of literature allows us to nonetheless identify three such objections. The possibility of being paroled is supposed to induce unwarranted surrender; to prevent POW from contributing to the war effort by constituting a burden onto the enemy, and by potentially escaping and rejoining the force; and to induce the POW to somehow break their solidarity with their fellow POW.

Let us start with the first objection. It seems plausible to say that the temptation to surrender and thus avoid the horrors of combat has historically been balanced, among other things, by an aversion to the horrors inherent in captivity. If the latter ceased to be a concern, perhaps one should anticipate a rise in unwarranted surrenders. However, this worry about soldiers wantonly surrendering can be easily assuaged by investigating the extent to which it is the negative, rather than positive incentives, that motivate the contemporary professional soldier to fight.

At least in present-day volunteer-based armed forces, obedience to orders rests on positive rather than negative incentives. A military force based on continuous reenlistment of committed professionals cannot function in any other way. Patriotism; belief in the cause; attachment to comrades; sense of professional pride; hope of professional advancement; or simply a desire to keep one's job are, in a large enough proportion of cases, sufficient to motivate a soldier to continue fighting. If all these motivations jointly fail, it is doubtful that fear of captivity on its own will keep a soldier combat effective. Even if such a demoralized soldier will not surrender, his contribution to the war effort will not be very substantial anyway.

Furthermore, surrendering-to-be-paroled would also come burdened with significant risks. The very process of surrendering is inherently tense and fraught with possibilities for deadly misunderstanding[14]. Such needless surrenders would also become a subject of legal scrutiny, allowing for prosecution of combatants who unreasonably "opt-out" of combat situations, as is already standard (Caron 2018, 96). If a surrender was unwarranted given the military situation, a parolee returning home may thus face punishment offsetting any "gains" of a premature surrender.

The argument from exposing own troops to the harms of prolonged captivity in order to provide them with negative incentives is also burdened with some troubling implications. If denying one's own troops the possibility of being paroled were a legitimate way of inducing them to fight, why not go a bit further and arrange for their captivity to be maximally uncomfortable?[15] Why, indeed, should we not stop to give and receive quarter to ensure our soldiers will fight to the death? Such practices, manifested in their purest form in the WWII-

[14] If some solutions postulated by this paper, such as widespread use of surrender beacons, are ever introduced, the process of surrender may become less fraught with danger, but it is unlikely to ever become riskless. And even if it was to become riskless, the other reasons keeping combatants from needlessly surrendering and mentioned in this section would suffice on their own to prevent wanton surrenders.

[15] Arguments to this effect have actually been made in conjunction with calls for the abolition of parole. Wylie & Cameron attest to such calls being accompanied by the "criticisms of those who felt that the pampering of prisoners sat ill with their status as servicemen and might, in the words of the Austrian emperor, 'be an inducement to cowardly or effeminate soldiers to escape the dangers and hardships of war'" (2019, 1332).

era Imperial Japanese Army (Margolin 2007) are now universally abhorred. They were abandoned for a number of reasons – the rights and interests of soldiers *qua* human beings, the necessity of creating armed forces that reliably serve rights-respecting, civilian-controlled democracies and, last but not least, their ultimate disutility, as applied by all sides these negative incentives canceled each other out. To analyze these reasons is to realize that the reintroduction of parole is a logical next step in the developments in international humanitarian law designed to align with the principle of humanity. If we have good reasons to reject some types of harms being visited upon the captives as sources of welcome negative incentives, then we have reasons to reject all types of equally significant harms. As Section I has demonstrated, the current paradigm exposes POW to all kinds off harms, including those that the current laws of war explicitly seek to prevent in all cases.

Finally, even if the practice of parole was to hurt military potential to some degree at the tactical level, it could prove beneficial at the political level. Desire to end the suffering of POW and their families can be a major driver of anti-war sentiment at home. Eliminating it could strengthen public resolve to persevere in a conflict, offsetting any detrimental impact of the policy on the troops' morale.

A second argument against parole is based on the captured combatants' limited, but nonetheless existing ability to contribute to the war effort. As one of the critics put it, "the primary reason that the United States prohibits agreements is because the enemy never offers parole unless it is to his advantage" (Lyons 1980, 352). Captured soldiers still have a chance to escape and rejoin the fight, however slim. They also tie some number of enemy troops down as POW camp guards and force the enemy to expend some resources to feed, clothe, and care for them. Keeping prisoners is not free of cost, and this cost is a burden to the enemy, thus providing a limited but tangible contribution.

This contribution, however, is usually clearly disproportionate to the sacrifice it requires (Brown 1998, 222; MacKenzie 2008). Attempts to escape are usually unsuccessful and expose prisoners to deadly risks; in a well-run POW camp employing modern technology such as cameras, motion detectors, and electrified fences, it is nearly impossible to escape, even if the guard-to prisoner ratio is quite low. In addition to such measures, POW camps are often located well within the enemy hinterland, on inaccessible islands, or even on another continent, making escape all but futile.

Such measures do still increase the cost of keeping prisoners of war, both in terms of manpower and in terms of resources. Thus, even if the chances of escape and subsequent contribution to the war effort are negligible, perhaps these costs may justify the harms of captivity? The problem, however, is that the costs are not so great. Guards are likely to be recruited from the least specialized troops, thus diminishing any advantage. A and in terms of resources dedicated to imprisoning POW, it is hard to plausibly imagine that a contemporary nation-state will have trouble bearing them, unless POW number in the hundreds of thousands, which is unlikely given the size of modern armies. And if the cost of keeping prisoners really becomes hard to bear, as was the case for the Confederacy in the late phases of the American Civil War (McPherson 2003, 892-3), it is highly likely that POW will bear the brunt of shortages, becoming neglected and perhaps even starved, thus multiplying their suffering while simultaneously diminishing the cost to the captor. Consequently, there is indeed little to be gained for the price of POW suffering.

That being said, there have historically been conflicts, such as World War II, when every bit of effort counted and the moral cost of losing was too enormous to not contribute all possible resources to the struggle. To accept a Nazi parole in WWII, a critic could rightly say, would

have been unethical – and there is no guarantee that a struggle of equal moral importance will not happen again. While I acknowledge this argument may have merit in the rare case of truly existential conflicts, all it entails is there is reason to restrict the use of parole to those conflicts where the stakes are less than existential. And the latter constitute the vast majority of all wars. A practice being worth re-establishing does not mean that it needs to be universally applied without exception. Prisoner exchanges are a legitimate and useful practice, yet there have been cases where suspending them was arguably a right choice[16]. Parole would be no different.

The final objection to the practice of parole is found in the putative breaking of faith, solidarity, or trust with fellow prisoners. "The POW who enters into a parole agreement with the enemy cannot be trusted by his fellow prisoners" (Lyons 1980, 352). "The main reason for the decline [of parole], in addition to national prohibitions on accepting release, may be mistrust of the opposing Party, as well as mistrust by fellow prisoners of those who accept offers of parole" (2020 Commentary, ¶ 1957). Yet this is only the case if parole is granted in return for collaboration with the enemy, or if accepting it is already perceived as wrong for other reasons and prohibited or disapproved of by military authorities. If accepting parole was both legal, commonly practiced, and would come with no dishonorable conditions attached, there is no reason why any other POW would feel betrayed by his fellow accepting parole. Granted, there could be classes of combatants, such as rare specialists, who would be left out of parole agreements or prisoner exchanges. But it is doubtful that they would resent others for taking their chance to stay with their families, and even more doubtful if any such resentment would be justified or result in moral obligations on the part of others. The remaining prisoners would not be disadvantaged by others accepting parole in any way; indeed, under the arrangements proposed in this paper, even such rare specialists could enjoy parole in a neutral country, a less beneficial, but still preferable form of detention.

In summary, at least in the case of some armed conflicts, and likely in the majority of them, it is clearly morally preferable for POW to be paroled rather than held captive. The surprisingly few inherent problems mentioned by critics are either irrelevant to most cases or can be dealt with through other, less drastic means. Yet, as already mentioned, it is not the lack of moral appeal, but perceived lack of practical viability that presents the key difficulty, to which I now turn.

Section III – Making Parole Work in Practice

The revived institution of parole could take many forms, addressing all or only some problems with present-day POW treatment. Still, every form of parole would face the same basic difficulty – the enforcement of the parolee's promise to not participate in the ongoing war effort. Historically, the personal convictions of parolees were a significant factor in influencing them to stay out of the fight. Contemporary combatants freshly introduced to the practice would mostly lack such convictions, at least initially (though they would probably develop over time, as with other new norms and customs of war). Reneging on a parole agreement should ideally

[16] This has was also noted by Vattel, who writes that "it would have ill-suited the interests of the czar Peter the Great, to restore his prisoners to the Swedes for an equal number of Russians" (1758/2008, 557), given the disparity in the quality of both nations' troops. He does believe, however, that such circumstances are not the norm, and so that denial of exchange or parole should not be a default, but an exception made with a heavy heart as it is "very severe" for the affected POW.

be difficult, if not impossible, and have immediate consequences, returning the reneging parolee to a state of regular captivity (or stripping them of the privileges of lawful combatancy, as discussed below). This presents challenges, yet technological and institutional solutions may be offered to meet these.

At this point it is useful to remind ourselves of the different types of parole we distinguished earlier. Battlefield parole and post-processing parole differ by where and when they are granted; home country (HC) and neutral country (NC) parole differ by the location of the parolees' internment; whether a parole is constrained or unconstrained depends on the degree of freedom of movement a parolee enjoys – both HC and NC parole can be constrained or unconstrained.

All these types have differing advantages and disadvantages with regards to each other. Post-processing parole avoids certain practical difficulties connected with enforcement, offering the captor initial control over the captive and an opportunity to collect their biometric data. At the same time, however, post-processing parole fails to solve some of the problems discussed in Section I, like the perverse incentive to kill rather than capture, or the problems of surrendering to aircraft and autonomous weapons.

The same goes for the other distinctions. Where parolees stay and the degree to which they are allowed freedom of movement and other liberties determines the scope of difficulties associated with enforcing their parole. Parole-as-house-arrest is obviously quite different from parole-as-being-restricted-to-a-particular-region, or an even looser restriction allowing the parolee to stay anywhere but the actual warzone. For the sake of completeness, let us examine all these aspects and their variants, starting with the types of arrangements that seem easiest to establish and enforce.

Neutral Country Parole. Relatively constrained NC parole – the parolees being restricted, at least at night, to a purpose-built compound – is easiest to imagine. Internment by a neutral state is a longstanding practice, recognized under IHL (Melzer 2016, 175). Universalizing this method of POW detention would decisively diminish the probability of prisoner abuse, while simultaneously offering a detaining power the comfort of knowing that no POW will be liberated by the other side. NC parole does not require a detaining power to trust the promise of an individual prisoner or the assurances of the enemy state. The trust is instead placed in the promise made by the neutral party, presumably one jointly agreed to by the belligerent powers.

This model of parole, consisting of outsourcing POW detention to a neutral actor, is hardly revolutionary. The neutral power would be incentivized and/or pressured by belligerent country X not to allow the prisoners from belligerent country Y to escape, and incentivized/pressured by Y to treat prisoners from Y humanely (free access, or perhaps residual presence of inspectors from both countries is both warranted and welcome). As the guards and POW would not be soldiers of enemy nations, mutual enmity would be much less likely to develop. The guards would find no reason to abuse prisoners (and many reasons not to); the captives would find it easier to accept that they should not target guards with violence in order to escape and should generally follow their commands voluntarily. Lack of mutual enmity could allow considerable relaxation of the restraints placed on the captives. Family visits could easily be allowed and arranged, as travel to a neutral country should not present a problem.

Having successfully demonstrated its ability to retain prisoners in these vastly preferable conditions for the length of a particular conflict, the host nation might then even specialize in providing such a service, allowing considerable investments in the infrastructure and expertise required. The UN and other international institutions, as well as specialized non-governmental

organizations, could and should make additional contributions to the project. Private donors, perhaps former POW, could also help the system develop and mature.

There is nothing quixotic or impractical in this arrangement. It would probably cost considerably more than traditional POW detention, but all humanitarian improvements come with a cost. The military budgets of even moderately affluent nations have generally been able to afford developments aiming at increasing both safety and comfort of soldiers in recent decades. It is not hard to imagine countries with reasonably good human rights record being eager to serve as neutral internment hosts, motivated by both financial gain and humanitarian ideals[17].

Indeed, the arrangement has been recently realized in practice even despite the complete breakdown of trust between the belligerent parties, though on a small scale. Five commanders of the Ukrainian defense of Mariupol have recently been interned in Turkey as a part of a prisoner exchange between Ukraine and Russia[18]. Given the scale of animosity between the belligerents in this conflict, widespread abuse of prisoners of war (much more severe and systemic on the Russian side, but also documented in Ukraine (Bogner 2022)) and the fact that Mariupol defenders have been vilified by Russian propaganda as literal Nazis, the success of this exchange demonstrates that the NC parole model has a potential to succeed even in very difficult circumstances, and in the absence of direct cooperation between the parties.

Most importantly, this system could be made self-enforceable, especially if prisoners from both belligerent powers were held by the same neutral state. The host nation could discourage escape attempts simply by declaring that for every escaped parolee it would release a number of prisoners from the other nation, thus potentially incentivizing nations to return such escapees on their own initiative. Refusing to transfer recently captured POW into neutral internment could be discouraged in the same way – if a prisoner known to have been captured was not transferred to the neutral party for some reason, POW of the other belligerent nation could be released as a penalty. The sanctions would thus take the exclusive form of benefits to individual prisoners from the opposing power[19], but they would be no less effective for this.

In summary, NC parole would make POW abuse much less likely by replacing enemy combatants with neutral, professional guards, creating incentives for good treatment and making independent monitoring easier. It would also enable POW to be visited by family and friends. These two reasons are sufficient to advocate for the establishment and continued perfection of such arrangements. This, however, is not the end of the story, as NC parole may also serve as a stepping stone towards other, more desirable models of parole.

Home Country Parole. The main practical problem with this type of parole is the detaining power's lack of leverage over the parolees. Once they are safely returned to their country, what is to stop them from breaking the terms of their parole and rejoining the fight? Unlike in the case of NC parole, there would be no neutral power to do this, motivated both by its own interest in preserving good relations with the detaining power and preventing the whole arrangement from collapsing. Breaking parole could be criminalized under IHL, or under the terms of a bilateral/multilateral treaty, but as long as parole violators remained within their country – or in the warzone, avoiding a second capture – there would be no possibility for captors to enforce these laws either. This, however, is true only if we assume the opposing

[17] To give an example, the Scandinavian nations or Switzerland could be considered for this role in Europe.
[18] https://kyivindependent.com/news-feed/zelensky-5-ukrainian-commanders-released-in-pow-exchange-will-remain-in-turkey-until-end-of-war
[19] This point is important – the system needs to avoid reprisals against prisoners, understood as them becoming worse off than they are under the current paradigm, if it is to remain fair, humane, and IHL compliant.

power does not have soldiers of its own under home parole and cannot reciprocate by having them break their parole in turn, something which they surely could and would do.

That said, if all POW from all belligerent powers were to serve their parole in their respective countries, such reciprocity could end in a cascade of parole violations undoing the entire system. One solution to this problem would consist of having the neutral nation running the NC parole system retain a fraction of all POW from each belligerent power – let us say one third. In this case, it would be possible for POW in detention to function as collateral; if the HC parolees from one country – monitored by various well established technological means now used to monitor criminals on parole or out on bail – choose to break their parole, their randomly selected comrades would never be granted theirs. The neutral nation could also release a disproportionate number of the other nation's prisoners from captivity, benefiting the parties upholding the agreement at the expense of those in breach. Consequently, this enforcement mechanism would only work if the numbers of prisoner taken by each side were not highly disproportionate. If there was such a disproportion, the side who had more prisoners taken would benefit massively from universal parole violation by everyone involved, and so could not be deterred from adopting such a strategy. Thus, in the case of large disproportion between numbers of prisoners held, NC parole might prove the only viable model. Additionally agreements between parties could specify in advance that if the ratio between the number of prisoners taken exceeded a given value, HC parole releases would be halted.

If parolees refrained from violations, they would be rotated between the internment camp and their respective hometowns with only a fraction of their number subject to internment at a given time. This would alleviate the pain of captivity in a significant way, replacing an indefinite period of isolation with regular visits to one's home country punctuated with stays at the internment center where family visits would also be allowed. Within this system, individual parolees would have comparatively little incentive to break their parole. They would also be aware that reneging on their promise would directly hurt their comrades' chances of getting their home parole. This would be an especially powerful enforcement mechanism if members of specific units were released on parole in corresponding shifts. A parolee contemplating violation would thus understand that his own comrades – people he personally knows and has fought alongside – would have to suffer prolonged detention as a result of his actions.

One could object to this arrangement as an exercise in collective punishment, yet such a characterization would be mistaken. Even the POW being denied HC parole because of their comrades' actions would still be better off than under the current system, being detained by a neutral power, with all the resultant benefits. They would thus be denied an additional opportunity, not a right – an opportunity possible only through general adherence to the rules. And while *individuals* would be deterred from breaking their parole by the prospect of harming their own comrades, *nations* would be deterred by the prospect of prisoners from another country regaining their freedom – a consequence involving the POW benefiting rather than being harmed.

Bad faith on behalf of both individuals and nations could still undermine this system, as it can with arrangements. But it would not do so instantly, and the system could right breaches without collapsing. It would also become stronger with time, as the practice proves itself and becomes viewed as normal and honorable.

Battlefield Parole. Popularization of post-processing parole could safeguard prisoners from abuse and allow a substantial portion of them to spend most of their captivity at home, turning what was previously a prison sentence into something far more humane. These welcome developments do not, however, alleviate the problems associated with surrender to aircraft or

autonomous weapons, or remove perverse incentives not to take prisoners. Unless the possibility of granting – and enforcing – battlefield parole exists, these remaining problems cannot be avoided.

The main difficulty here consists of motivating parolees to promptly find their way into the POW processing system, without re-engaging in hostilities. Parolees would also have to be marked in a way clearly and instantly recognizable by friend and foe, and in a way that is hard or impossible to subsequently conceal or remove. A marked parolee could then be directed towards the captor's rear or, if that is not practically possible, into the rear of his own army, to be processed and transferred to an internment facility in a neutral country.

The motivation to abide by the terms of parole could be instilled in the same way as for the POW who are paroled post-processing, provided the post-processing parole system is already established and that personal data, such as name, rank, and identification number of the individual receiving a battlefield parole become known to the captor as part of the battlefield parole procedure. If this were the case, the captive could be sanctioned in the same way as any other parolee – unless he would arrive at the detention facility in a neutral country in due time, a comrade of his would lose his eligibility for parole, and a number of enemy prisoners would be released. His identity being known, he could also answer for a war crime of breaking parole upon recapture or upon post-war reconciliation. Moreover, unless his own government was willing to aid him in his breach, he could also face domestic sanctions. Combined, these would create strong incentives for POW to abide by the terms of their parole.

As it is no longer difficult to equip platoon and even squad-sized units – especially mechanized formations – with devices enabling biometric identification, battlefield parolees could be registered using these means, providing simultaneous proof of their capture. Alternatively, unique individual surrender beacons (Sparrow 2015, 716-7) would allow individuals to transfer their biometric and other information upon being activated, making it accessible to aircraft and AWS. The very activation of a specific surrender beacon would therefore serve as a proof of capture.

One may assume that if the captor could send the POW to his own rear for processing, he would do that, with no surrender beacons being called for (a captor would in fact be obliged to safely escort prisoners in this way under IHL). It is thus clear that surrender beacons would usually be activated by persons captured away from the frontline, usually in commando or air operations striking deep into their own side's territory. Such parolees might choose not to be sufficiently prompt in reaching detention, continuing to engage in hostilities or aiding the war effort in other ways. To avoid this, they may be required to record their post-parole actions in some way, documenting their journey to the nearest processing point. Unexplained gaps in this record would be grounds for later sanctions, such as being denied parole at the detention center or perhaps criminal prosecution under IHL or bilateral treaties.

One final yet powerful mechanism incentivizing parole compliance would be stripping parole breakers of combatants' immunity under IHL. The law grants legitimate combatants immunity from prosecution for commission of lawful acts of violence within the context of war (Dinstein 2016, 42-47; Haque 2017, 22-30). If a soldier has surrendered and then been paroled, the easiest enforcement method is to simply treat subsequent violent acts as criminal acts. Thus, if a paroled soldier fights again, he will be prosecuted for assault, attempted assault, assault

with a deadly weapon, murder, attempted murder[20], etc. Stripping all legal immunities from combatants once they are paroled makes the personal costs of breaking parole exceedingly high[21].

Section IV – Limitations

The model outlined above is not likely to change the lot of all existing and future POW instantly and without significant amounts of effort. Addressing the proposal's limitations, however, helps one to realize its resilience and scalability.

First of all, no such arrangement can be created without there being at least a single pair of nations that are interested enough in the well-being of their POW to be willing to bilaterally implement it. Such a dyad would also have to be likely enough to find themselves at war with each other to bother with the work of erecting a parole framework[22]. Demonstrating the system works in practice might prove key for dispelling skepticism about the idea, and so finding precursors willing to engage in a bilateral treaty to this effect would be crucial. Given that adversary pairs meeting this description are rare, this is a somewhat tall order. I admit that some of the states most likely to find themselves at war are likely to reject the idea out of hand, either out of disregard for the well-being of their POW or out of a mistaken belief in the validity of the arguments discussed in Section II. On the other hand, unlike various disarmament or weapon non-proliferation frameworks, the parole system may be practiced effectively by a single pair of countries without placing them at any disadvantage in relation to states that do not practice it (Brown 1998, 223). While it would be ideal if a greater number of actors adopted the system, it is worthwhile to work towards its adoption by any number of states.

Another obstacle to launching the system is finding a trusted and respected nation with a strong humanitarian record that would be willing to intern POW (Sivakumaran 2018, 72). This could incur serious political costs for that neutral power. On the international arena, the nation is likely to become the addressee of complaints from both warring parties. On a national level, it is easy to imagine local opposition to having a POW camp built in the area, or spirited ideological opposition to the neutral nation's assistance in interning POW from a friendly nation. The latter could be assuaged to an extent by the humanitarian nature of the project as a whole; the former might be addressed by the United Nations or another prominent inter-governmental organization formally taking over the management of such facilities.

Last but not least, the proposed parole framework has to compete not only with the paradigm of detaining powers interring POW until the termination of hostilities, but also with the paradigm of prisoner exchange. Why parole prisoners when they can just be exchanged? There are several reasons for establishing a parole system not instead of, but alongside an exchange cartel. Usually, one side will have fewer prisoners to exchange, meaning that even when all exchanges are successfully completed, one side may be left holding POW who cannot be exchanged, because there is no one to exchange them for. While this scenario would also

[20] Parole breakers could also be charged with conspiracy to commit all these crimes. More controversially, this conspiracy charge could extend to officers knowingly employing parole breakers within units under their command. I am indebted to Nathan Wood for bringing this possibility to my attention.

[21] Again, I am thankful to Nathan Wood for making me aware of this possibility.

[22] If a pair of friendly and peaceful countries, say, Norway and Sweden, were to sign a bilateral treaty to such an effect, it would likely be perceived as an empty gesture of countries too unlikely to ever fight each other for their commitments to carry actual weight of precedence.

create challenges for a parole system, the possibility of neutral country parole would make it feasible for POW without enemy counterparts to receive parole.

More importantly, one belligerent may perceive it as not in their interest to exchange POW, that is to return them to the frontlines, but be comfortable with paroling them, keeping them out of combat. This may be true when there is a general quality mismatch between both forces; or, more likely, it may be true for certain groups of POW. While the value of combatants *qua* persons is equal, their value *qua* military professionals is not. A nation that took prisoner fifty fighter pilots may not be willing to exchange them for fifty, or even one hundred fifty truck drivers. They may, however, be comfortable with granting them parole in a neutral country, or perhaps even hybrid NC-HC parole described above. In that way, a parole cartel is more sensitive to the attritional goal of the belligerents, an important consideration to accommodate, especially as it was once mistakenly viewed as a reason for discontinuing parole (Vance et al. 2006, 299).

The crucial advantage of parole over exchange is, however, the viability of battlefield parole. As discussed, battlefield parole is key to enabling surrender to aircraft or AWS and to removing captors' perverse incentives when overwhelmed by the number of prisoners taken, unable to move them etc. In these situations, there can be, by definition, no prisoner exchange, and yet they occur with increasing frequency and the poignancy of addressing them grows. Establishing a parole system would be worthwhile if only to address these classes of cases.

Conclusion

The sole legitimate end of the currently prevalent model of detaining prisoners of war aims to prevent them from rejoining hostilities. Detention by a hostile power lasting until the end of hostilities, regardless of how long the war takes, is, however, no longer necessary to fulfill this end, and therefore no longer justified. This results in needless imprisonment of innocent persons, their vulnerability to morally abhorrent abuse frequently associated with POW detention, and the creation of perverse incentives to refuse quarter or to neglect prisoners.

A practically enforceable system of parole, reinstated and reinforced with the help of modern communication and surveillance technologies, could remove these flaws without endangering either the detaining powers' interest in keeping prisoners off the battlefield or their own government's interest in sustaining high morale and military effectiveness. Simultaneously, there exist no compelling reasons against the practice of parole as such (though there may be reasons to suspend or restrict it in certain circumstances). States' unwillingness to acknowledge this fact, driven by unreflective adherence to early 20th century dogma, is the only real barrier to ushering in a new, much more humane system. Governments should make it legal for their military personnel to enter into honorable parole arrangements. Indeed, they owe such permission to those persons willing to make enormous sacrifices in their defense.

While there are practical obstacles to the creation of a properly functioning parole system, these can plausibly be surmounted. Establishing internment camps in a mutually trusted neutral nation with an incentive to both prevent POW from rejoining the conflict and increase their well-being and access to family visits may be a first step in the right direction, while constituting significant progress in its own right.

The existence of such internment camps in a neutral territory could be leveraged to allow for a significant proportion of captive soldiers to serve their parole in their home countries (subject to surveillance and periodic returns to the internment camps for short, pre-defined

periods). Modern technology such as biometric recognition techniques and surrender beacons can furthermore be utilized to allow captives to be directly paroled on the battlefield, removing the perverse incentives to kill rather than capture surrendering enemy troops who cannot be successfully escorted to the rear.

The ideas presented here can undoubtedly be improved upon. This article is meant to start a debate on how to create a reliable, internationally recognized way of paroling POW, not to exhaust it. Some practical solutions I have suggested may prove not so practical after all; yet I believe I have demonstrated that the reintroduction of parole as such is ethically required and practically possible. We owe this to present and future combatants, both as human beings endowed with rights and as a class of citizens who disproportionately bear the costs of decisions and policies agreed to in the democratic processes we all participate in. Not to try to realize the worthy goal of sparing POW needless suffering and avoidable risks would be to abandon this duty.

Bibliography

Amoroso & Tamburrini (2017) – Amoroso, Daniele, and Guglielmo Tamburrini. "The ethical and legal case against autonomy in weapons systems." *Global Jurist* 18.1 (2017). https://doi.org/10.1515/gj-2017-0012

Asaro (2008) – Asaro, Peter. "How just could a robot war be." *Current issues in computing and philosophy* 175: 50-64. https://peterasaro.org/writing/Asaro%20Just%20Robot%20War.pdf

Bogner (2022) – Matilda Bogner. "Speech by." United Nations Office of the High Commissioner for Human Rights, Monitoring Mission in Ukraine, November 15th, 2022, https://ukraine.un.org/en/207332-more-8-months-russias-armed-attack-ukraine-and-ensuing-escalation-hostilities-un-reports

Boulanin & Verbruggen (2017) – Boulanin, Vincent, and Maaike Verbruggen. "Mapping the development of autonomy in weapon systems." *Stockholm International Peace Research Institute*, November 2017. https://www.sipri.org/publications/2017/other-publications/mapping-development-autonomy-weapon-systems.

Brown (1998) – Brown, Gary D. "Prisoner of War Parole: Ancient concept, modern utility." *Military Law Review* 156 (1998): 200. https://heinonline.org/HOL/LandingPage?handle=hein.journals/milrv156&div=8&id=&page=

Caron (2018) – Caron, Jean-François. *Disobedience in the military: legal and ethical implications*. Springer, 2018.

Comfort et al. (2016) – Comfort, Megan, et al. "The costs of incarceration for families of prisoners." *International Review of the Red Cross* 98.903 (2016): 783-798. https://doi.org/10.1017/S1816383117000704

Commentary of 2020 – International Committee of the Red Cross, "Commentary to the Geneva Convention (III) relative to the Treatment of Prisoners of War." (2020), from https://ihl-databases.icrc.org/en/ihl-treaties/gciii-1949

Crawford (2023) – Crawford, Emily."Parole of Prisoners of War under Article 21 of the Third Geneva Convention: Past, Present, and Future." in: Schmitt, Michael N., and Christopher J.

Koschnitzky, eds. *Prisoners of war in contemporary conflict*. Vol. 8. Oxford University Press, 2023, pp. 235-52.

Dinstein (2016) – Dinstein, Yoram. “The Conduct of Hostilities under the Law of International Armed Conflict: Third Edition.” *Cambridge: Cambridge University Press*, (2016).

Dinstein & Dahl (2020) – Dinstein, Yoram, and Arne Willy Dahl. “Oslo Manual on Select Topics of the Law of Armed Conflict: Rules and Commentary.” Springer Nature, 2020. https://web.archive.org/web/20200710194336id_/https://link.springer.com/content/pdf/10.1007/978-3-030-39169-0.pdf

Egeland (2016) – Egeland, Kjølv. "Lethal autonomous weapon systems under international humanitarian law." *Nordic Journal of International Law* 85.2 (2016): 89-118. https://doi.org/10.1163/15718107-08502001

Ferguson (2004) – Ferguson, Niall. "Prisoner taking and prisoner killing in the age of total war: towards a political economy of military defeat." *War in History* 11.2 (2004): 148-192. https://doi.org/10.1191/0968344504wh291oa

Fooks (1924) – Fooks, Herbert Clarence. *Prisoners of war*. JW Stowell Printing Company, 1924.

Grotius (1625/2005) – Grotius, Hugo. “The Rights of War and Peace, Book III.” *Liberty Fund: Indianapolis*, (2005).

Haque (2017) – Haque, Adil Ahmad. “Law and morality at war.” *Oxford: Oxford University Press*, (2017).

Jenks & Jensen (2011) – Jenks, Chris, and Eric Talbot Jensen. "Indefinite Detention Under the Laws of War." *Stan. L. & Pol'y Rev.* 22 (2011): 41. https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1729221

Jensen (2005) – Jensen, Eric Talbot. "Combatant Status: It Is Time for Intermediate Levels of Recognition for Partial Compliance." *Va. J. Int'l L.* 46 (2005): 209. https://papers.ssrn.com/sol3/papers.cfm?abstract_id=995578

Knight (1991) – Knight, Betsy. "Prisoner Exchange and Parole in the American Revolution." *The William and Mary Quarterly: A Magazine of Early American History and Culture* (1991): 201-222. https://doi.org/10.2307/2938068

Lieber Code (1863) – Instructions for the Government of Armies of the United States in the Field (Lieber Code). 24 April 1863. https://ihl-databases.icrc.org/assets/treaties/110-IHL-L-Code-EN.pdf

Luban (2017) – Luban, David. "Just war theory and the laws of war as nonidentical twins." *Ethics & International Affairs* 31.4 (2017): 433-440. https://doi.org/10.1017/S0892679417000429

Lyons (1980) – Lyons, William P. "Prisoners of War and the Code of Conduct." *International Law Studies* 62.1 (1980): 20. https://www.jstor.org/stable/44641032

MacKenzie (2008) – MacKenzie, S. P. "The ethics of escape: British officer POWs in the First World War." *War in History* 15.1 (2008): 1-16. https://doi.org/10.1177/0968344507083992

Margolin (2007) – Margolin, Jean-Louis. “L'Armée de l'Empereur: Violences et crimes du Japon en guerre-1937-1945”. Armand Colin, 2007.

McMahan (2007) – McMahan, Jeff. "The sources and status of just war principles." *Journal of Military Ethics* 6.2 (2007): 91-106. https://doi.org/10.1080/15027570701381963

Mcpherson (2003) – McPherson, James M. *Battle cry of freedom: The Civil War era*. Oxford University Press, 2003.

Melzer (2016) – Melzer, Niels. "International Humanitarian Law: a Comprehensive Introduction." International Committee of the Red Cross publication, 2016. https://library.icrc.org/library/docs/DOC/icrc-002-4231.pdf

Orend (2013) – Orend, Brian. "The Morality of War; Second Edition Expanded and Updated.", *Broadview Press: Peterborough, Ontario* (2013).

Sivakumaran (2018) – Sivakumaran, Sandesh. "Conflict-related detention of particularly vulnerable persons." 94 INT'L L. STUD. 39 (2018): 39-74. https://nottingham-repository.worktribe.com/output/932121

Sparrow (2015) – Sparrow, Robert. "Twenty seconds to comply: Autonomous weapon systems and the recognition of surrender." *International Law Studies* 91.1 (2015): 699-728. https://digital-commons.usnwc.edu/cgi/viewcontent.cgi?article=1413&context=ils

Ursano & Bendek (2003) – Ursano, Robert J., and David M. Benedek. "Prisoners of war: long-term health outcomes." *The Lancet* 362 (2003): 22-23. https://doi.org/10.1016/S0140-6736(03)15062-3

Vance et al. (2006) – Vance, Johnathan F. (ed.). "Encyclopaedia of Prisoners of War and internment." Second Edition, *Grey House Publishing: Santa Barbara, CA* (2006).

Vattel (1758/2008) – Vattel, Emer de. "The Law of Nations." *Liberty Fund: Indianapolis,* (2008).

Walzer (1977/2006) – Walzer, Michael. "Just and Unjust Wars: A Moral Argument with Historical Illustrations." Fourth Edition, *Basic Books: New York* (2006).

Willet (2011) – Willet, Mary. "THE WORD OF A GENTLEMAN AND THE OATH OF A PATRIOT: Military Parole in the American Civil War." (2011). University of Sydney BA Thesis
ses.library.usyd.edu.au/bitstream/2123/7995/1/Willett_M_The%20World%20of%20a%20Gentleman.pdf

Wood (2024) – Wood, Nathan. "Proportionality and combat trauma." *Philosophical Studies* (2024): 1-21. https://doi.org/10.1007/s11098-024-02100-2

Wylie & Cameron (2019) – Wylie, Neville, and Lindsey Cameron. "The impact of World War I on the law governing the treatment of prisoners of war and the making of a humanitarian subject." *European Journal of International Law* 29.4 (2018): 1327-1350. https://doi.org/10.1093/ejil/chy085