

## **Negotiating and Mediating Conduct of War**

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### **Published version**

STIBBE, Matthew (2019). Negotiating and Mediating Conduct of War. Freie Universitat Berlin [and others].

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Version 1.0 | Last updated 01 November 2019

# Negotiating and Mediating Conduct of War

By [Matthew Stibbe](#)

Many issues surrounding the conduct of war in the years 1914-1918 were impervious to international negotiation or mediation, due either to a complete lack of consensus or to an absence of trust and goodwill. However, there were some important exceptions, especially when it came to treatment of enemy wounded on the battlefield and conditions of military captivity. Here, ongoing, if intermittent, mediation produced some positive results. A notable feature of this was the intervention of neutral countries including the United States (until 1917), Spain, Sweden, Switzerland and the Netherlands, as well as humanitarian organisations like the International Committee of the Red Cross.

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## Introduction

This article examines how the manner of waging war was negotiated by the belligerent states and mediated via the intervention of neutral countries and international organisations in the period 1914-1918. What constituted legitimate and non-legitimate war conduct was a contested subject, and reflected rival understandings of humanitarian obligation, national interest and the right to safeguard

military security. For international jurists and legal advisors to [governments](#), as well as for the wider public, it also raised the possibility of post-war trials for what were deemed to be “war crimes” committed by one side or the other.<sup>[1]</sup>

The two [Balkan wars of 1912-1913](#) were an important precursor to the First World War in this respect. In particular, they were a warning that all the progress made towards “humanising” the conduct of war – whether stemming from older Christian teachings or more modern concepts of [international law](#) – might come to nothing in the event of a major conflict in Europe. The report of the International Commission on the Causes and Conduct of the Balkan Wars, funded by the Carnegie Endowment for International Peace, gave a vivid account of numerous, multilateral violations of the Geneva (1864, 1906) and [Hague](#) conventions (1899, 1907), and more generally of the established rules and customs of war. This included instances of “extermination, [forced] migration and [forced] assimilation” of supposedly “alien” populations or nationalities.<sup>[2]</sup> Even so, the western powers could comfort themselves with the “knowledge” that the Balkans were not really part of “Europe”. The report of the Carnegie Commission certainly reinforced this long-standing belief.<sup>[3]</sup> It was left to an audacious fifteen-year-old student in Bavaria, the young [Bertolt Brecht \(1898-1956\)](#), to challenge the notion that the west could impose order on the basis of its self-referential vision for world justice. In August 1913, his parable, “The Balkan War”, was published in the school magazine he edited in Augsburg:

A sick old man [Turkey] was walking through the country. Four young lads overpowered him and took away his possessions. Sadly the old man went on. But at the next crossroads he saw to his astonishment that three of the robbers were overpowering the fourth, to take his loot away from him. But it fell into the roadway during the fight. Joyfully the old man picked it up and hurried away. But in the next town he was arrested and taken before the judge. The four lads were standing there and, in unity again, they indicted him. The judge, however, decided as follows: the old man must give back the last of his possessions to the young boys. “Since”, said the wise and just judge, “otherwise the four fellows would cause trouble in the country”.<sup>[4]</sup>

In the years that followed, Brecht’s parable turned out to be prescient in at least two respects. Firstly, the “Balkanisation” or “re-territorialisation” of the Balkans to create new, supposedly more “national” but certainly non-historic state borders under the treaties of London, Bucharest and Constantinople in 1913 begat more, not less violence, particularly against “alien” civilians and other non-combatants. And secondly, across Europe the principles for a more humane conduct of war between “civilised” nations enshrined in the Geneva and Hague conventions were exposed for what they had always been: a 19<sup>th</sup> century means of advancing the global and imperial interests of the great powers which were unable to withstand the unprecedented challenges of 20<sup>th</sup> century total war. This had one potential advantage: laying bare the power interests at stake in negotiations over the conduct of war should have, in theory, made such negotiations more straightforward. However, in reality, things were more complex, with (contested) notions of international justice continuing to play a role alongside questions of power and prestige in how the conduct of the war was negotiated and mediated. The following article will demonstrate this by looking at the stance taken both by the

wartime belligerents and by neutral mediators. First, though, it will be necessary to consider which elements of the war's conduct caused the most controversy in international politics in the period 1914 to 1918, and why.

## War Conduct and International Politics

After the outbreak of hostilities in 1914, it was by no means all aspects of waging war that were subject to international negotiation or mediation, even if they involved wilful breaches of international or domestic law. [Espionage](#), counter-espionage and code-breaking, for example, were considered beyond legitimate discussion. Even to place these matters into international public debate would mean to admit knowledge of organisations and clandestine networks that officially did not exist and activities that formally did not take place. Secrecy was the essence of all intelligence-gathering operations.<sup>[5]</sup> Furthermore, as much or perhaps even more wartime espionage was undertaken against allies or neutral countries than against enemies. Spying on enemies itself often entailed covert operations on neutral soil. Even where this was discovered, embarrassment about security breaches again militated against exposure in the public domain.

In other cases, negotiating the conduct of war proved difficult not because of a reluctance to discuss the problem in public, but because there were totally irreconcilable views on what had actually taken place, rendering discussion or mediation for the purpose of reaching some kind of agreement pointless, or even counter-productive. The classic example here would be the issue of guerrilla warfare, which cropped up very soon after the outbreak of hostilities, especially in relation to [Belgium](#). All sides were more or less in agreement that any armed resistance against invading troops had to take place within the bounds of the 1907 Hague Convention on Land Warfare (*Haager Landkriegsordnung*, HLKO). Article 1 of the HLKO stipulated that the only lawful combatants were those who were organised under the command of a “person responsible for his subordinates”; who wore a “fixed distinctive emblem recognizable at a distance”; and who “carr[ied] arms openly”.<sup>[6]</sup> Where they disagreed was on whether there had in fact been any instances of *unlawful* guerrilla warfare on the part of Belgium in August 1914, and, if so, whether this was on a scale and level of intent sufficient to justify the [atrocities](#) committed in retaliation by the invading German forces against Belgian civilians, including deportations, the execution of hostages and the destruction of cultural treasures such as the medieval library in the town of Louvain.<sup>[7]</sup>

Another issue that ended in stalemate was the deployment of chemical weapons, namely poisonous [gas](#), on the [Western Front](#). The allies insisted that the Germans had been the first to use this, at the [Second Battle of Ypres](#) in April 1915, but the Germans counter-claimed that their troops had already been exposed to (non-lethal) tear gas and other “terror” [weapons](#), including the recruitment of [African and Asian troops](#) to [serve in Europe](#), even though this subverted existing racial hierarchies and undermined 19<sup>th</sup> century principles of white “superiority”.<sup>[8]</sup> In the end, the poisonous gas issue was only resolved at a [League of Nations](#) conference in Geneva in 1925, culminating in ratification of the Geneva Protocol which prohibited use of chemical and biological weapons in future international

conflicts.<sup>[9]</sup> This did not stop governments or international organisations fearing the use of such weapons, and making contingency plans in the form of civil defence training, just as they also planned for the large-scale use of [air attacks](#) on civilian targets in future conflicts.<sup>[10]</sup> Between 1925 and 1930, virtually every issue of the monthly *Revue internationale de la Croix-Rouge* contained at least one article by a leading medical, legal or arms expert about the threat facing humanity from chemical warfare.

The third set of cases revolved around instances where negotiations over particular forms of military conduct took place during the war itself, but one or both sides refused over a long period of time to compromise, making the *continuation* of discussions pointless. Many aspects of economic warfare fell into this bracket, in particular the British-led allied [naval blockade](#) of the central powers, which lasted until July 1919, in spite of the growing suffering of the civilian population in [Germany](#) and [Austria-Hungary](#) under its effects. True, the allies were prepared to negotiate with neutral countries over certain aspects of the blockade as it impacted on their domestic economies and trading relationships. However, such discussions were increasingly one-sided, especially after the Paris Economic Conference of June 1916 and the [United States'](#) entry into the war against Germany as an associated power in April 1917, followed soon afterwards by [China](#), [Brazil](#), Liberia, [Siam](#) and several Central American countries.<sup>[11]</sup>

Many of the countries that declared war on Germany in 1917-1918 cited the latter's declaration of unrestricted [submarine warfare](#) in February 1917 as their primary motivating factor. Yet, in fact, until 1917 Berlin had shown some signs of being able to compromise on this issue, for instance after the [sinking of the Lusitania](#) off the coast of [Ireland](#) on 7 May 1915, when it succumbed to American-led international pressure to place limits on what submarine commanders could do.<sup>[12]</sup> However, German commanders in the field and the army staging areas were less willing to compromise over aspects of military policy in Belgium and northern France as time went by, not least as the occupation regime took away scarce material resources while encountering what the Germans regarded as illegal resistance from the civilian population in the form of passive and active work refusal. True, in late 1914 and early 1915 agreements were reached to allow an international [food relief](#) programme organised by the Quaker philanthropist and future U. S. President [Herbert Hoover](#) (1874-1964) to operate in the invaded areas.<sup>[13]</sup> Many of the 10,000 French and 13,000 Belgian hostages seized in the first weeks of the war were also released.<sup>[14]</sup> But from mid-1915 onwards, there were further incidents of hostage-taking and deportations, including the case of 20,000 French women and girls taken against their will from their homes in the city of Lille and surrounding towns at Easter 1916 and forced to work on agricultural projects under the direction of the German [occupation](#) authorities.<sup>[15]</sup> Overall, the [International Committee of the Red Cross](#) (ICRC) estimated that 100,000 French and Belgian civilians had been deported to Germany by the end of the war. In addition, tens of thousands were forcibly recruited into civilian labour gangs in the occupied zones.<sup>[16]</sup> There was also widespread international condemnation of the decision to execute nurse [Edith Cavell](#) (1865-1915) in October 1915 for helping allied servicemen to escape from occupied

Belgium; and equally of the death sentence carried out in Bruges against Captain Charles Fryatt (1872-1916), a British merchant sea captain, in July 1916, for attempting to ram a German submarine that he thought was about to attack the unarmed ship he was then commanding in the North Sea, the SS *Brussels*.<sup>[17]</sup> Finally, in the spring of 1917, the German army was castigated for using a series of brutal reprisal measures on the Western Front to force Britain and France to withdraw their recently deployed military prisoner-of-war (POW) labour battalions to a distance of no less than thirty kilometres from the firing lines.<sup>[18]</sup>

So, given all of the above, what aspects of the war's conduct did lend themselves to continuous, non-violent negotiation or mediation between 1914 and 1918? In fact, there were just two: care of the enemy wounded on and off the battlefield – an area of remarkable success for international cooperation – and, related to this, treatment of POWs away from the fighting zones. These were the issues that had prompted the first Geneva convention of 1864 (revised 1906), and it is indeed significant to note that both the allied side and the central powers felt sufficiently invested in securing improvements in these areas to make ongoing cooperation viable, if not always smooth. For some historians, such as Richard B. Speed III, this is evidence of the survival of a more “liberal tradition” of captivity from the 19<sup>th</sup> century into the First World War era.<sup>[19]</sup> However, it is more likely to have been the result of economic self-interest: captor powers were interested in keeping their prisoners healthy so that they could be used as a labour resource at home and in the fighting zones.<sup>[20]</sup> Domestic political pressures also played a role in securing exchange deals: the sheer amount of time spent by some captives in POW camps led to concerns firstly about the financial and emotional impact on families, and secondly about the long-term consequences for the physical and mental health of the prisoners themselves. The Vatican was one of the first neutral parties to bring this up, an important consideration in Catholic countries.<sup>[21]</sup> Humanitarian groups in Switzerland, and even individual medical experts, voiced their concerns.<sup>[22]</sup> Campaign groups at home acted on behalf of the relatives of prisoners and advertised the negative effects of long-term family separation on national efficiency and social cohesion.<sup>[23]</sup> Both prisoners and their families were potential future voters; their attitude towards the state and/or governing political parties that took them into war and at the same time claimed responsibility for their health and well-being could not be ignored.

The first agreements were signed in early 1915 for the exchange of severely wounded prisoners (*grands blessés*). These agreements also applied to enemy civilian internees. In January 1916 the French and German governments signed an agreement in Bern for the neutral internment, in Switzerland, of certain categories of less severely wounded prisoners. Over 1916 these arrangements were extended to include Britain, Belgium and Austria-Hungary. In July 1917 a parallel agreement was signed at The Hague between Germany and Britain for the internment of prisoners in the Netherlands. The latter for the first time included reference to “barbed-wire disease”, the mental illness associated with long-term captivity, as one of the categories under which a prisoner could be considered eligible for transfer into neutral internment.<sup>[24]</sup>

The measures discussed above did not put an end to prisoner abuses by any means. With regard to the violently imposed “thirty-kilometre agreement”, while the allies stuck to this with “remarkabl[e] tenaci[ty]” after 1917, Germany did not.<sup>[25]</sup> Furthermore, even when they were not deployed directly behind the lines, the use of POW labour battalions on the Western Front in 1917-1918 sailed very close to breaching key stipulations in the 1907 HLKO, not least article 6, which stated that any work allotted to captured enemy personnel “shall not be excessive and shall have no connection with the operations of the war”.<sup>[26]</sup> Nor, by 1918, was [forced labour](#) the only problem. Prisoner exchange agreements, even when ratified by national governments, were slow to be implemented and were sometimes deliberately held up by army commanders citing reasons of military security. Those affected included the diseased, the over-worked and the under-fed. Up to 100,000 Italian POWs in Austrian captivity – or one sixth of the total – died from malnutrition in the last year of the war.<sup>[27]</sup> A group of enemy civilian prisoners released from the camp at Katzenau near Linz in Upper Austria in September 1918, again mostly Italians, arrived at the Swiss border suffering from terrible illnesses:

The passengers were in a horrific state. The doctor estimated the number of sick at around 90; 11 persons had to be transported lying down, including a woman who had given birth a few hours earlier; two prisoners with tuberculosis were close to death... There were also numerous cases of swelling of the lower body parts, probably caused by hunger.<sup>[28]</sup>

Nonetheless, the fact is that military and civilian captivity was one of the few areas of wartime conduct where dialogue between the belligerent states remained open until November 1918 and where positive outcomes were possible in some contexts. In particular, with the significant exceptions of Italian, Romanian and Russian POWs on all fronts, Serbs in Habsburg captivity, British prisoners in the [Ottoman Empire](#), and German and Habsburg prisoners in [Russia](#), death rates in camps were generally low. Killing of prisoners on the battlefield immediately after capture did occur on both sides, but instances were “episodic” rather than “systematic”, and surrendering was generally a good way of guaranteeing one’s physical survival.<sup>[29]</sup> Respect for [Red Cross](#) personnel and facilities in land-based theatres was also “for the most part upheld”, although in the war at sea, German submarines were known to attack hospital ships with Red Cross markings in defiance of international law, blaming this on Britain’s alleged “systematic misuse” of such ships for transporting munitions and healthy (as well as wounded) soldiers.<sup>[30]</sup>

## Propaganda and the Conduct of the War

[Propaganda](#) was one way in which ideas about how the war was being conducted could be communicated to foreign and domestic audiences. Yet at the same time, propaganda was itself a means of conducting the war, and indeed a highly contentious one.<sup>[31]</sup> The [German government](#) in particular repeatedly expressed its outrage at the “lies” allegedly told about the behaviour of its troops in Belgium in 1914, a strand of thinking which subsequently fed into the more general campaign against the “war-guilt lie” after 1919.<sup>[32]</sup> Added to their sense of grievance was the fact that, early on

during the war, the allies cut the transatlantic cables linking Germany to the New World, making it all the harder to spread the German message there. For official diplomatic business, Berlin had to rely on use of the U. S. state department's cables, which the allies, of course, could not cut (although British naval intelligence intercepts on these cables enabled the discovery of the [Zimmermann Telegram](#) in early 1917, among other things).<sup>[33]</sup>

Meanwhile, a more immediate German response to the Belgian atrocity stories was to start gathering "proof" of allied misdeeds against German civilians. As early as 26 August 1914, the German *Reich* office of the interior appointed one of its ministerial directors, Dr. [Otto Just \(1854-1931\)](#), as *Reich* commissioner for the discussion of [Belgian atrocities against Germans](#) (*Reichskommissar zur Erörterung belgischer Gewalttätigkeiten gegen Deutsche*), with a remit to collect evidence that German civilians living in Belgium had been mistreated in the early weeks of the war. Within a month, Just's mandate had been extended: now his title was *Reich* commissioner for the discussion of acts of violence committed against German civilians on enemy territory (*Reichskommissar zur Erörterung von Gewalttätigkeiten gegen deutsche Zivilpersonen in Feindesland*).<sup>[34]</sup> Some of Just's material was cited verbatim in the *Reichstag* committee of inquiry's report on wartime violations of international law, published in 1927.<sup>[35]</sup> However, the German foreign office (*Auswärtiges Amt*, AA) took steps to make sure that the information he collected on the supposed mistreatment of German civilians in Britain and the British Empire was not placed in the public domain during the war itself, insisting that many of the eye-witness statements needed to be checked to make sure they were water-tight.<sup>[36]</sup> This reflected both a legalistic mind-set and a desire to postpone open confrontation with alleged allied abuses until after the war. While hostilities continued, priority was given to defending the conduct of German soldiers in the fighting zones and occupied territories, rather than presenting non-combatant Germans as victims.<sup>[37]</sup>

The Austro-Hungarian ministry of foreign affairs had no such qualms; it had already published four volumes of documentary evidence regarding alleged breaches of international law by allied countries between 1915 and 1916. Its accusations included mistreatment of Austrians and Hungarians living in Britain, France and their overseas possessions, and violations of the HLKO committed by Russian, Serbian, Montenegrin and Italian troops.<sup>[38]</sup> The Serbs and Montenegrins in particular were deemed to have deliberately encouraged "the horrific and insidious participation of the whole population" in acts of guerrilla warfare against the legitimate occupying power in their lands.<sup>[39]</sup> The allies' use of black soldiers to guard Habsburg and German civilians held in (and subsequently deported from) [West](#) and [Central Africa](#) was also condemned as a breach of "European conventions" (*europäische Völkerrecht*) since the British, French and Belgian imperial authorities could offer no guarantees that the "wild and half-wild hordes" (*Wilde und Halbwilde*) who made up the ranks of their colonial armies "will stick within the rules of warfare determined by international law".<sup>[40]</sup>

After 1915, Berlin and Vienna vociferously defended their new ally [Bulgaria](#) in public, despite horrific stories about its treatment of Serb civilians in the occupied Vardar Macedonia region, where the

frequent partisan-led “uprisings against the military regime were crushed with [great] severity”.<sup>[41]</sup> But behind the scenes, they too had private concerns. The Habsburg ambassador in Sofia, Count Adam Tarnowski von Tarnów (1866-1946), for instance, in a note to the ministry of foreign affairs in Vienna on 1 March 1916, expressed his exasperation at what he called – following an unsatisfactory conversation with Bulgarian Prime Minister Vasil Radoslavov (1854-1929) – the “system of extermination and robbery” (*Ausrottungs- und Raubsystem*) that was currently being practised by Bulgarian forces in and around the city of Niš.<sup>[42]</sup>

The allies, for their part, occasionally promoted newspaper reports of alleged Habsburg misdeeds in occupied territories and frontier zones, including deportations of civilians. In particular, they were interested in stories regarding expulsions of Italians from the border regions of the monarchy, especially as evidence emerged that such measures were taken even before the official Italian declaration of war on 23 May 1915.<sup>[43]</sup> However, they were cautious here in the sense that the dissolution of the Habsburg monarchy did not become an official allied aim until early in 1918. Evidence collected by British military intelligence, for instance on the mistreatment of “Russophile” Ruthene prisoners at the Thalerhof camp near Graz, was not always shared with the pro-allied [press](#), at least until the final year of the war.<sup>[44]</sup>

Allied governments, particularly the British and French, were less reserved when it came to reporting on the Turkish [genocide](#) against the Ottoman Armenians in 1915-1916. This was by far the worst atrocity of the First World War, and profoundly shocked many of the foreign observers who witnessed various aspects of it, including the initial massacres in eastern Anatolia, the forced marches into the desert, the camps for survivors in Ottoman Syria, and cases of further mass slaughter. The British, French, Russians and Italians were anxious not to offend Islamic opinion in their own empires by presenting the Turkish government’s actions as a religious- or ethnically-motivated attack on Christendom.<sup>[45]</sup> In (still neutral) America, the [press](#) was less inclined to caution on this point, as was liberal and conservative public opinion across the world more generally.<sup>[46]</sup> Yet because this was a crime carried out by a belligerent state against its own subjects, it was not considered by western governments to have the same legal or political ramifications for how the war was being conducted between belligerent states in other parts of the world, and particularly in Europe. For the allies, and especially for allied jurists, it was more convenient to focus on the Germans’ “systematic... brutality” in France and Belgium, and it was largely on this basis that they made connections with the Turkish massacre of the Armenian population.<sup>[47]</sup>

## The Mediators

[Spain](#) has been described by Jens Albes as the most important of the European neutrals during the war, although it is not clear why.<sup>[48]</sup> True, it was by default the largest and most populous of the continental non-belligerent countries, at least after Italy joined the allied side on 23 May 1915. It was also clearly affected by the global economic showdown, and played a role in negotiations over the

conduct of the war at sea. However, unlike Switzerland, the Netherlands and the Scandinavian countries, it had no direct land or maritime border with the central powers and was therefore of less strategic significance in allied measures to prevent breaches of the blockade. In fact, Spain's role was probably more important in terms of mediating the conduct of the war in Africa. In early 1916, the last of the German colonial forces in Cameroon fled across the border to Spanish Guinea, with French troops in hot pursuit. The Spanish authorities were obliged to intern them for the remainder of the war, first on the island of Fernando Po off the west coast of Africa, and then – following pressure from the allies – in mainland Spain. This was a form of neutral internment undertaken not for humanitarian purposes, but to protect Spain's status as a neutral and offset a threatened Anglo-French invasion of its African territories.<sup>[49]</sup>

Other than that, Spain acted as protecting power for French, Belgian and Russian prisoners in Germany and Austria-Hungary and for German and Habsburg captives in France. In that capacity, Spanish embassy officials carried out camp inspections, although like the ICRC, they were refused access to military or civilian POW labour battalions in occupied territories.<sup>[50]</sup> In May 1918, a group of 200 Germans who had been deported to Lisbon from Mozambique by the Portuguese colonial authorities in 1917 directly petitioned Alfonso XIII, King of Spain (1886-1941) to intercede on their behalf, but he was unable to secure their return to Germany before the end of the war.<sup>[51]</sup> Likewise, Spanish diplomats in Vienna tried but largely failed to remedy the terrible conditions experienced by several hundred Serb men, women and children at the camp in Nezsider (Neusiedl) who had been deported from Habsburg-occupied Serbia in the wake of partisan uprisings in 1917. The Austro-Hungarian war ministry responded, in a note to the ministry of foreign affairs in February 1918, by asserting that, “complaints made by Serb internees have the sole purpose of soliciting more money and gifts from the Spanish embassy”.<sup>[52]</sup>

A much more significant role as mediator of how the war was conducted in Europe was played by the United States, at least until the beginning of 1917. The state department supported private initiatives to mitigate the suffering of civilian occupied populations, such as Hoover's Commission for Relief in Belgium. It also played a leading part in ongoing negotiations about the conduct of the war at sea.<sup>[53]</sup> Finally, the U. S. acted as protecting power for German interests in Britain, British interests in Germany, and British, French and Italian interests in Austria-Hungary. Yet there were also significant differences of opinion among American diplomats in Europe about how they should act in face of misconduct on either side that did not directly impact on U. S. interests. At one extreme was Joseph C. Grew (1880-1965), first secretary of the U. S. embassy in Berlin, who believed that as representatives of the protecting power, he and his fellow diplomats had a duty to be entirely transparent in their activities and to produce “complete and true statement[s] of the facts” in relation to complaints about misconduct by one side or the other in the war, even if this made mediation more difficult.<sup>[54]</sup> As he wrote to his father-in-law, Thomas Sergeant Perry (1845–1928), on 6 December 1914, he and his colleagues saw themselves as progressives upholding universal values and the rule of law: “We realize that if militarism is not now killed once and for ever, the progress of

the world will be retarded for many generations to come”.<sup>[55]</sup> At the other extreme was the U. S. consul general in Vienna, Ulysses Grant-Smith (1870-1959), who, upon receiving reports from a junior colleague in Hungarian-administered Fiume (Rijeka) about the deportation of Italians living there in May 1915, retorted:

We must, all of us, disabuse our minds of the idea that we are “representing”, in any degree, any country but the United States of America. To put it bluntly, the Austro-Hungarian authorities can shoot each and every alien enemy within her borders and the United States officials would have no rights under law or treaty to protest.<sup>[56]</sup>

A middle way was taken by the U. S. ambassadors in London, Walter Hines Page (1855-1918), and Berlin, James W. Gerard (1867-1951), who at an early stage in the war committed themselves – in Gerard’s words – to pool their mutual knowledge in order to “prevent an increase of bitterness” between the opposing sides by encouraging them to modify their policies in a more humane direction.<sup>[57]</sup> Needless to say, by the time he had returned to the United States in 1917, Gerard had become one of America’s (and the world’s) leading critics of “Kaiserism”, not least in relation to the German Empire’s conduct of the war.<sup>[58]</sup>

The ICRC faced a similar dilemma to neutral diplomats when it came to enforcing the Geneva conventions and the Hague regulations. If it made infractions too visible, it might encourage reprisals. But if it kept too quiet about abuses, then it would lose the most important lever that it did have: the force of international public opinion. By 1916, indeed, one of its principal and most successful campaigns had been to limit the use of reprisals in the treatment of POWs and civilian internees, an issue that it continued to press right up to 1918.<sup>[59]</sup> Moreover, whereas the system of protecting powers tended to focus narrowly on mediation between two warring countries, the ICRC was able, at least in theory, to work on a multilateral basis. Its inspection of POW camps, for instance, spread well beyond Europe to take in North Africa, the Middle East, India, Burma and Japan.<sup>[60]</sup> Lack of resources and geographical barriers nonetheless prevented it from being able to reach all parts of the world where conduct of the war was an issue. In Russia in particular, it had to rely on proxies, including the Danish and Swedish Red Cross Societies and the American YMCA organisation.<sup>[61]</sup> In contrast to neutral powers, its POW camp inspection system did not reach as far as the Americas, sub-Saharan Africa or Australasia.

With regard to other campaigns, the ICRC also had some notable failures, for instance in preventing the use of chemical weapons on the Western Front,<sup>[62]</sup> or the torpedoing of hospital ships.<sup>[63]</sup> In the spring of 1917 it was unable to mediate in the extremely violent dispute between Germany and Britain and France over the deployment of POW labour battalions close to the front lines, or even to gain access to the prisoners concerned – except via the heavily censored and manipulated letters that the latter were allowed to write.<sup>[64]</sup> In September 1917 its joint call, with national Red Cross societies from neutral countries, for an all-round end to reprisals against prisoners and for equality of status between military and civilian POWs fell on deaf ears.<sup>[65]</sup> Although it collaborated with a variety

of secular and religious humanitarian organisations organised at national and transnational level, its relations with the Vatican, a key player in attempts to negotiate more humane treatment of prisoners according to universal Christian precepts, remained poor.<sup>[66]</sup> It was often left out of bilateral negotiations between belligerent states, and had to ask for copies of individual POW conventions signed at Bern, The Hague and elsewhere in 1916-1918.<sup>[67]</sup> Some pacifist and feminist groups also criticised the ICRC for attempting to render war more acceptable instead of campaigning for its immediate, unconditional end.<sup>[68]</sup>

Scandinavian countries sometimes offered to mediate on behalf of, or provide services to, POWs in areas that the ICRC could not reach, especially, as indicated above, when it came to communications with the [Russian government](#) regarding captured central powers personnel. Negotiations for the exchange of severely wounded POWs via Swedish soil met with some success in 1915. However, unlike the ICRC, both the Danish and Swedish Red Cross societies shied away from carrying out official inspections of camps themselves, partly because of the distances involved in travelling to places of captivity in the more remote parts of the Russian Empire, but also because their humanitarianism was linked to their self-understanding as national, rather than international organisations. Instead, they negotiated safe passage for a number of inspection tours carried out by groups of volunteer (and mainly aristocratic) Red Cross [nurses](#) from Germany and Austria-Hungary in conjunction with the Russian Red Cross, and by the quasi-independent and much mythologised Swedish activist [Elsa Brändström \(1888-1948\)](#).<sup>[69]</sup> [Denmark](#) and [Norway](#), it should be noted, were sufficiently far removed from the fighting fronts to make acts of mediation seem more like a choice than a necessity. True, they may have felt the effects of the allied naval blockade, but they were less touched by other aspects of the war, whether in the form of proximity to battlefields, [occupation](#) zones and sites of alleged atrocities, or exposure to [refugees](#), deserters and escaped or abandoned prisoners arriving at their borders. The same cannot be said for [Sweden](#), which became more heavily involved in mediation between Tsarist Russia and the Central Powers during the years 1915-1916, and in prisoner repatriation on the [Eastern Front](#) in 1917.<sup>[70]</sup>

In Western Europe, it was the Swiss and Dutch governments that mediated the bulk of agreements on the treatment and release of POWs and internees. Switzerland took in a total of 67,700 moderately sick POWs and civilian internees between 1916 and 1919, albeit with a maximum of 30,000 at any one time. If they had not recovered from their ailments after three months, they could apply to be sent home; if they did recover, they were obliged to stay in Switzerland, and, in the case of rank-and-file military prisoners, to work in order to earn their keep.<sup>[71]</sup> In 1917, the Dutch government agreed to intern 16,000 British and German prisoners under similar conditions, with 2,000 places reserved for civilians, and a further 6,500 for officers and NCOs.<sup>[72]</sup> This kind of neutral internment was undertaken voluntarily and for a mixture of humanitarian motives and national interest. Or, as the Swiss medical expert [Adolf Lukas Vischer \(1884-1974\)](#) put it in his book on “barbed-wire disease”: “Whilst Europe is sweltering in blood and fury, our country has demonstrated its will, even at this time, to cherish and foster the ideals of humanity. Switzerland has thereby

brilliantly justified her right to existence”.<sup>[73]</sup>

Severely wounded prisoners (*grands blessés*) could also use Swiss or Dutch territory as a transit route home, in the Swiss case between France, Germany, Austria and Italy, and in the Dutch case between Britain and Germany. In addition, both countries were *obliged* to take in other “war guests” in order to safeguard their neutral status, including individual deserters and escaped prisoners; soldiers from warring armies who crossed into their territory in order to evade capture or slaughter by the enemy; and civilian refugees from war zones.<sup>[74]</sup> Indeed, in terms of negotiating and mediating wartime conduct towards deserters, captured enemy personnel and occupied populations, it is reasonable to argue that the Netherlands and Switzerland had a far more important role to play than did Spain or the Scandinavian nations. Sweden again was a partial exception, as it too allowed its territory to be used for prisoner exchanges between Russia and the Central Powers – albeit without the additional offer of neutral internment for the less severely injured or unwell.<sup>[75]</sup>

## Conclusion: Results

The war ended in 1918/1919 with no agreement on general principles concerning changes that were needed to the international rules governing the conduct of war on land or sea. At best, the main allied powers concurred that commitment to upholding the rule of law underpinned and guaranteed their security, but they differed among themselves about what their security needs were. True, the League of Nations injected a new “dynamic of internationalization” into relations between the main European and extra-European imperial powers, but, as Susan Pedersen has shown, this was largely directed towards making the inter-war global/colonial order appear “more humane and therefore more legitimate”, rather than (re-)defining legitimate conduct in war.<sup>[76]</sup> Meanwhile, as a legal document, the peace settlement committed Germany to disarm, to hand over leading war criminals, and to renounce certain weapons, including submarines and most types of surface warships, thus supposedly safeguarding Europe from the evils of “militarism”. However, the Germans in the end refused to surrender any war criminals, opting instead to stage their own, unsatisfactory series of [trials](#) before the *Reich* supreme court (*Reichsgericht*) in Leipzig in 1921 and 1922. While the court looked at hundreds of complaints, a mere seventeen cases were actually pursued all the way to a judicial verdict, and just ten defendants were found guilty.<sup>[77]</sup> Furthermore, although the German government went through with disarmament, it did so reluctantly and without accepting the moral legitimacy of the allies’ one-sided demands. The former Prussian, now *Reich* ministry of war defended the German army’s conduct during the war, publishing works after 1918 that disingenuously claimed that any breaches of international law on its part – for instance, in relation to use of gas or mistreatment of prisoners – were either not breaches, as they were carried out for reasons of military necessity, or were justified acts of reprisal designed to force the allies to cease their misconduct in the war.<sup>[78]</sup> A similar line was taken by the *Reichstag* committee of inquiry in its 1927 report on wartime breaches of international law, which concluded, among other things, that the shooting of hostages in Belgium in 1914 had not constituted a war crime on Germany’s part,<sup>[79]</sup> and

that the entente powers, and above all France, had systemically violated [Greece's neutrality](#) before 1917:

In this way, they proved to the whole world that their championing of the rights of smaller nations and the sanctity of treaties, which formed part of their moral case against the enemy, was forced to yield unconditionally whenever their own military interests were at stake.<sup>[80]</sup>

The failure to agree on general principles also influenced how international campaigners for stronger humanitarian laws of war interpreted the new liberal world order. At first the [Paris Peace Conference](#) raised some hopes. The Women's International League for Peace and Freedom, holding its first post-war congress at Zurich in May 1919, petitioned the peace-makers, among other things, to outlaw the mass deportation of civilians from war zones, noting that "the expulsion of thousands of innocent people cannot be treated as an internal affair of any of the nations concerned".<sup>[81]</sup> Newly-formed states in Central and Eastern Europe were quick to express their desire to accede to the Geneva Convention of 1906, with independent [Czechoslovakia](#) already sending notes to this effect to the Swiss federal council on 15 September and 17 November 1919.<sup>[82]</sup> And the ICRC, at its ninth international conference in 1921, resolved to persuade national governments that in future wars "there should be no civilian prisoners other than those capable of bearing arms, those fit for military service in the strictest meaning of the phrase".<sup>[83]</sup>

However, the lack of common agreement on what constituted "correct" conduct in war, and thus what international justice might look like in the modern era, led most peace campaigners in the 1920s to focus on preventing war in the first place. This signalled, as [Alan Kramer](#) argues, a marked shift in emphasis in international debates from *jus in bello* towards *jus ad bellum*.<sup>[84]</sup> Collective security through the League of Nations, which Germany was allowed to join in 1926, competed here with the Kellogg-Briand Pact of 1928. Both developments marked the arrival of a new era in international relations in which 19<sup>th</sup> century assumptions about the "responsible" use of power were now widely recognised as redundant or worse. However, neither development stopped the outbreak of horrifying new conflicts in the 1930s: the Japanese attack on Manchuria, and then on China more generally; the Italian conquest of [Ethiopia](#); and the Spanish Civil War. Aerial bombings, chemical attacks, abuse of prisoners of war, and deportations of civilians featured in some or all of these conflicts. True, the revised 1929 Geneva Convention allowed certain improvements in the rules regarding treatment of military captives, based on the experience of real cases of misconduct or hardship during the war.<sup>[85]</sup> Even the German *Reichstag's* committee of inquiry, otherwise very hostile to allied claims, had concluded in 1927 that there was enough common ground on this particular question to allow for "a further expansion" (*ein weiterer Ausbau*) of the existing rules.<sup>[86]</sup> However, the special case of POWs – alongside the 1925 Geneva Protocol prohibiting use of chemical and biological weapons – should not be mistaken for a more general revival of faith in negotiation and mediation as the best means to "humanise" war. In fact, it was to take the much greater civilian and combatant suffering of the Second World War to focus minds once again on the universal humanitarian imperatives behind

attempts to modify the rules of armed conflict in the new, post-liberal and post-fascist world order that began to emerge after 1945.

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### **Citation**

Stibbe, Matthew: Negotiating and Mediating Conduct of War , in: 1914-1918-online. International Encyclopedia of the First World War, ed. by Ute Daniel, Peter Gatrell, Oliver Janz, Heather Jones, Jennifer Keene, Alan Kramer, and Bill Nasson, issued by Freie Universität Berlin, Berlin 2019-11-01.

**DOI:** [10.15463/ie1418.11426](https://doi.org/10.15463/ie1418.11426).

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