

The Chinese humanitarian heritage and the dissemination of and education in international humanitarian law in the Chinese People's Liberation Army

by
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China is a country with a civilized history of thousands of years and has a rich traditional culture in which the concepts of humanity, justice and morality have long played a very important part. Throughout the millennia many aphorisms of Confucius and Mencius, such as those that “a man of humanity and benevolence will care for others”, “no one in the world can challenge a man who is human and benevolent” and “he who cares for others is constantly cared for by them; he who respects others is constantly respected by them”, have shaped the lives of the Chinese people. This shows how deeply rooted such concepts are in China. They have a lot in common with today's humanitarianism.

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The Chinese humanitarian heritage

Looking back over Chinese history, it is easy to find many successful rulers and strategists who liked to cultivate “virtue” and considered that not only military strength but also humanity and morality were decisive factors in winning a war, i.e. in order to win a war, you should first win the people’s hearts, you should take care of the people and protect them. In ancient China, the legendary emperor of Huangdi defeated the emperor of Yandi because Huangdi knew not only how to train the soldiers but also how to win the hearts of the people. He helped them in their farm work, so “people from everywhere would like to see the emperor of Huangdi act as the king, because he is humane and benevolent”. Huangdi gained the people’s support and eventually became strong enough to win the final victory over the emperor of Yandi, whereas the latter, though initially very powerful, lost the war in the end because he was inhuman, violent and savage and had lost the support of the people.

Huang Gongshi’s “Three Stratagems” was a major work in the famous annals of Chinese military history, the “Seven Books of Military Manœuvres”. One of its most important viewpoints was that the final outcome of a war would be decided by the people. It says that “with the support of the people, a state will be successfully governed and the inhabitants will live in peace and contentment; without the support of the people, a state will perish and families will be broken up”; that “to run a state, the first thing is to know what the great masses think and to satisfy their needs”; and that “it is the people that will win a war and defeat the enemy”. It thus points out that only with the support of the people will a state be made strong and prosperous and a war be won, so the ruler of a state must “appease the people” and “care for the people”.

The notion that the people are the dominant factor in military struggles has been quite common in our history and examples of it are very easily found, for it embodies an irrefutable truth, a truth to which our late Chairman Mao Zedong firmly adhered in his leadership of the revolutionary wars in China when he said that “the richest source for the greatest strength of war comes from the people”. It was due to this concept that the Chinese People’s Liberation Army

(CPLA) grew, within the brief space of about twenty years, from a weak military group of only twenty to thirty thousand men into a strong regular force of several million which defeated the Guomindang forces outnumbering it once, dozens and even hundreds of times and won the final victory of the Civil War.

Although the above-mentioned concepts of “humanity”, “morality”, “appease the people” and “care for the people” were not quite in line with the “protection of civilians and the victims of war” that is the aim of international humanitarian law, they have at least one thing in common, namely the humanitarian principles they all advocated. The principles of revolutionary humanitarianism consistently respected by the CPLA are nevertheless in close compliance with those of international humanitarian concepts, especially with regard to the protection of the ordinary people and the treatment of captives.

The humanitarian tradition of the CPLA

The Chinese People’s Liberation Army, as the name itself indicates, is first of all an army of China, so it will beyond doubt succeed and develop the best of Chinese traditional culture. What is more important, however, is that it is also a people’s army, an army of the people, from the people and for the people. To take good care of the people, to protect the people and to serve the people wholeheartedly are the sole purpose and aim of this army. For several decades, either in the past revolutionary wars or in disaster relief operations, the CPLA has proved itself to be a highly disciplined people’s own army which never commits the slightest offence against the people.

As early as 1927, Mao Zedong laid down for the Red Army of the Chinese Workers and Peasants the *Three Main Rules of Discipline* and then in January 1928 the *Six Points for Attention*, in which most of the provisions were connected with protection of the people’s interests. For example, the second rule of the *Three Main Rules of Discipline* was “Do not take a single potato from civilians” and the *Six Points for Attention* were, respectively, “Put back the door boards you have taken down for bed boards”; “Fasten the straw bundles you used for bedding”; “Speak politely”; “Pay fairly for what you buy”; “Return everything you borrowed”; and “Pay for anything you

damaged”. Later these three rules and six points were developed into three rules and eight points. Some modifications were made. The second rule of discipline was changed into “Do not take a single needle or piece of thread from the masses”. As for the original six points for attention, the third, fourth, fifth and sixth were preserved but rearranged as Points 1 to 4. The original Points 1 and 2 were cancelled, while four new points were added: “5. Do not hit and swear at people”; “6. Do not damage crops”; “7. Do not take liberties with women”; “8. Do not maltreat captives”. With this last added point, the requirement that lenient treatment be given to captives has from then on been laid down as a written command for the CPLA.

The *Three Main Rules of Discipline* and the *Eight Points for Attention* are now the top set of disciplinary regulations and basic code of conduct for every member of the CPLA.

Three Main Rules of Discipline:

1. Obey orders in all your actions.
2. Do not take a single needle or piece of thread from the masses.
3. Turn in everything captured.

Eight Points for Attention:

1. Speak politely.
2. Pay fairly for what you buy.
3. Return everything you borrow.
4. Pay for anything you damage.
5. Do not hit or swear at people.
6. Do not damage crops.
7. Do not take liberties with women.
8. Do not maltreat captives.

Giving lenient treatment to captives has always been a tradition of the CPLA. In its early stages the Red Army made it clear that one of the fundamental rules of discipline was: “Fight against the warlords, but not their soldiers, and give lenient treatment to the captives”. Together with the *Three Main Rules of Discipline* and *Six Points for Attention*,

in 1928 four policies for the lenient treatment of captives were also laid down. They were: “Do not hit, swear at, kill or maltreat captives”, “Do not search captives’ pockets”, “Give medical treatment to wounded captives” and “Let captives stay or set them free at their own will”. These rules were later developed into *Five Policies for Lenient Treatment of Captives*: “Do not kill or injure captives”; “Do not hit, swear at, maltreat or insult captives”; “Do not confiscate the private property of captives”; “Give medical treatment to sick and wounded captives” and “Set the captives free”.

In 1937, three main principles for political work were put forward and among them was a mandate to give lenient treatment to captives. In October 1947, Mao Zedong said in the *Manifesto of the CPLA* that “our army will not kill nor insult any of the Guomintang soldiers and officers who have laid down their arms. We will collect those who are willing to stay and repatriate those who are willing to leave”. This once again shows that to treat captives leniently has long been a policy as well as a good tradition of the CPLA. Under the impact of such a policy the enemy forces eventually disintegrated, while the CPLA grew quickly, finally defeated the well-equipped eight million Guomintang forces and established a new people’s regime.

These policies of giving lenient treatment to captives reflect revolutionary humanitarianism and, as may easily be observed, were all adopted by the CPLA well before 1949. Thus even before the four Geneva Conventions were formally established, the CPLA had already carried out humanitarian policies for over twenty years. This undoubtedly served as a sound foundation for the CPLA to perform its future international obligations.

Implementation and observance of international humanitarian law

With the approval of the Standing Committee of the People’s Congress of the People’s Republic of China, China ratified the four 1949 Geneva Conventions in 1956 and the two 1977 Additional Protocols in 1983, thereby becoming party to each treaty. The Chinese government and the CPLA have ever since abided by the provisions of the Geneva Conventions voluntarily. During the Korean War in

the early fifties, the Chinese Volunteers' Army strictly observed the international humanitarian principles and treated the prisoners of war most humanely, although at that time the PRC had not yet ratified the Geneva Conventions (signed in 1949 by the Republic of China). Even though the Chinese Volunteers' Army had great difficulties with its logistic supplies and was living under very tough conditions, it nonetheless did its utmost to provide the POWs with the same living standard as its own soldiers, and sometimes even better. It also gave medical treatment to all the wounded, including the POWs and foreign civilians. For the dead, it filled out death certificates and sent them to the enemy side together with the mortal remains. In performing these international obligations, it did everything required of it by humanity and duty, as even the American media of that time had to agree. During the border conflict with India in the sixties, the CPLA rescued and helped the wounded on the battlefield, treated the POWs in full compliance with the requirements of the Geneva Conventions, and at the end of the conflict it not only repatriated all the POWs but also returned to the Indian side all the weapons and equipment captured during the conflict.

In the four 1949 Geneva Conventions, there is a common provision (i.e. Article 49 of the First Convention, Article 50 of the Second, Article 129 of the Third and Article 146 of the Fourth) stipulating that "[t]he High Contracting Parties undertake to enact any legislation necessary to provide effective penal sanctions for persons committing, or ordering to be committed, any of the grave breaches of the present Convention defined in the following Article". Accordingly, many of the requirements of the Conventions are integrated into China's domestic laws. For example, in the "Interim Regulations of the People's Republic of China on Punishment of Servicemen Who Commit Crimes Contrary to Their Duties" adopted at the 19th session of the Standing Committee of the 5th People's Congress on 10 June 1981, there were two provisions particularly concerning the protection of civilians and the treatment of POWs. Article 20 provides that "any serviceman who plunders or cruelly injures innocent inhabitants in an area of military operation shall be sentenced to a fixed-term imprisonment of not more than 7 years; if the breach is serious, the offender shall be sentenced to a fixed-term imprisonment

of more than 7 years; if the breach is especially serious, the offender shall be sentenced to life imprisonment or death". Article 21 provides that "any serviceman who maltreats a prisoner of war shall be sentenced, if such maltreatment is serious, to a fixed-term imprisonment of not more than 3 years".

In the new Criminal Law enacted in 1997, the aforesaid Interim Regulations are substituted by Chapter 10, entitled "Crime in Contravention of Servicemen's Duties". The stipulations of the original Articles 20 and 21 are kept but modified, thus making protection of civilians and POWs in wartime a written law of China. Article 446 of the new Criminal Law adds the words "in wartime" to Article 20 so as to more precisely reflect the requirements of the Geneva Conventions. In 1997, China's first National Defence Law was enacted. Its Article 67 clearly specifies that "in its military relations with other countries, the P. R. China observes the relevant treaties and agreements that it has concluded, acceded to or accepted". Such domestic legislation has provided strong legal support and a firm basis for the CPLA to follow and abide by international humanitarian law.

Dissemination of and education in international humanitarian law in the CPLA

Apart from implementation and observance of the international treaties, another important obligation that has to be performed by the contracting parties is to disseminate and promote the treaty among their own people. In the two 1977 Protocols, there are two articles addressing this issue. Article 83 of Protocol I provides that "[t]he High Contracting Parties undertake, in time of peace as in time of armed conflict, to disseminate the Conventions and this Protocol as widely as possible in their respective countries and, in particular, to include the study thereof in their programmes of military instruction and to encourage the study thereof by the civilian population, so that those instruments may become known to the armed forces and to the civilian population." Article 19 of Protocol II provides that "[t]his Protocol shall be disseminated as widely as possible". In compliance with these requirements, the CPLA has always taken the dissemination

of and instruction in the law of war to be an important part of the education and training of its members.

The education and training of the CPLA are divided into two main parts, school education and field training. In the military schools and colleges of the CPLA, instruction in the law of war is included in the teaching programmes, and to learn about it is a must and a compulsory course for the cadets. In the CPLA's political colleges, there are a great number of professors and experts in international law and the law of war; there are also some faculty sectors that specialize in teaching and studying the law of war. The CPLA's Xian Political College has set up a military law department to cultivate legal professionals with bachelor's or master's degrees throughout the CPLA, and the law of war is one of the areas of research offered for its postgraduates. The National Defence University, the highest learning academy of the CPLA, runs special lectures each year on the law of war for officers in training at or above the division and corps level. Of the Ph.D. students at the CPLA's Academy of Military Science, there are also some who major in the law of war. As for the grassroots units, instruction in the law of war is, however, given together with the political education and military training and forms one part of the CPLA's political work.

Political work is the lifeline of the CPLA to guarantee and enhance its fighting capability. Only with vigorous political work was the CPLA able to grow quickly from weak to strong and to win the final victory of the Liberation War. Revolutionary humanitarianism has always been an important part of that work. In the CPLA, there is a competent and integrated political working system. From the highest levels down to the most basic units there are political working organs and personnel so that every person in the CPLA will be able to receive appropriate political education. Thus, education in the law of war can be given effectively and quickly throughout the CPLA.

Since 1986 the CPLA has launched three Five-Year Law Dissemination and Education campaigns. These campaigns include spreading knowledge of the punishment that breaches of the law of war entail. To enable the policies to protect civilians and POWs to be strictly implemented in wartime, besides education in peacetime the

CPLA also has plans for pre-war practice sessions and a variety of supporting organizations to back these plans. In military exercises at all levels, the setting up of POW collection centres has remained one of the indispensable training subjects. The task of such centres is to group together, administer and protect POWs. During the exercises, a sort of mass-working organization will also be formed, usually called the mass-working section or mass-working group. Its task is to monitor and supervise the observance of mass discipline and the protection of civilian lives and property. This political working system has played a very active and effective role in dissemination of the law of war throughout the CPLA and has proved to be a great advantage for the military with such a system, at least in the field concerned.

Article 82 of Protocol I stipulates that “[t]he High Contracting Parties at all times, and the Parties to the conflict in time of armed conflict, shall ensure that legal advisers are available, when necessary, to advise military commanders at the appropriate level on the application of the Conventions and this Protocol and on the appropriated instruction to be given to the armed forces on this subject”. In accordance with this requirement, the CPLA has devoted great efforts to building up and developing a group of legal workers. To date, more than 250 sections of legal advisors with around 2,000 registered military lawyers, 10% of them with a Master’s degree, have been set up in the CPLA units at or above the corps level, while at or below the division level the CPLA has over 20,000 legal consultative stations with about 60,000 legal consultants. One of the military lawyers’ and legal consultants’ main tasks is to advise their units and commanders on the law of war and to supervise the application and implementation of that law.

Together with dissemination and education, studies and research on the law of war are also efficiently conducted in the CPLA. From the general headquarters level down to the military schools, there are some research institutes and academicians specialized in the study of the law of war. In addition to the research and educational institutes, an interest in and a desire to study the law of war has been shown, mainly in recent years, by a large number of soldiers as well as officers, many of whom become entirely self-taught experts in that field. Of those who

are assigned by the CPLA to study abroad, a lot have chosen the law of war as an optional or compulsory course. In military journals such as "Chinese Military Law" and numerous other military or non-military journals, many very impressive articles are written by those non-professional law researchers. Along with its research and educational work, the CPLA has since the fifties published a considerable amount of literature on the law of war either through its publishing houses or in military or non-military magazines. As early as 1954 the General Political Department of the CPLA had, for example, compiled and published "A Collection of International Treaties Concerning Rules of War"; in 1985, the Publishing House of the CPLA published "Documents on the Law of War"; in 1988, the Publishing House of the National Defence University published "Introduction to the Law of War"; in 1993, the Military Science Publishing House of the CPLA published "International Military Conventions" as part of the "China Military Encyclopaedia"; and in 1994 the Military Court of the CPLA's Shenyang Major Military Command published "Selections of Data on the Law of War". These publications contribute greatly to the dissemination of and education in international humanitarian law within the CPLA.

Looking ahead

Half a century has passed and great changes have taken place all over the world since the signing of the four 1949 Geneva Conventions. With the efforts made jointly by all peace-loving countries and people, the Cold War has been brought to an end, the threat of a world war has diminished, and peace and development have become the world's foremost consideration. The people of the world have shown an ever stronger desire for peace and need a more stable and peaceful international environment to develop the economy for their common interests.

For the past fifty years, however, we have as yet failed to reach true peace in this world. Though the danger of a world war is diminishing, regional wars and various armed conflicts have broken out as a major threat to world peace. People in many countries and regions are still suffering from these wars and conflicts. The determination voiced in the UN Charter to "save succeeding generations from the

scourge of war” has not been realized, and its requirement “to practice tolerance and live together in peace with one another as good neighbours ... and to ensure ... that armed force shall not be used, save in the common interest” has not yet been met. Therefore, we have to work hard or even harder before a more peaceful and stable world can be built. China is a peace-loving country. It respects and observes the UN Charter at all times and is always determined to devote itself to the maintenance of world peace. Since opening up to the world, China, in accordance with the Five Principles of Peaceful Existence, has played an increasingly important role in world affairs, and the CPLA, as the main military force of China and the numerically biggest army in the world, has an unshirkable duty to perform in safeguarding world peace.

China never thinks it right to resolve any dispute by waging wars or using force. The military should be a means of safeguarding peace and violence may only be used to combat violence, with peace as the final aim. Such a notion can be traced far back into Chinese history. According to Zuo’s “Commentary” (the earliest chronicle of China, covering the years of 722 B.C. to 454 B.C. and compiled by Tso Ch’iu-ming in the 5th century B.C.), during the Spring and Autumn and the Warring States periods, King Zhuang of the Chu kingdom had pointed out that the Chinese character for *wu* (use of force) was made up of *zhi* (stop) and *ge* (weapon), meaning that the final goal of waging a war was to stop the war itself and finally reach peace. So we can see that to get rid of wars completely has forever been a common ideal of mankind.

Unfortunately, thousands of years have passed and war, this cancer of human society, is still here poisoning the health of our world. But we do have a hope. We have hope because of the will and spirit reflected in the UN Charter and the Geneva Conventions. We have hope because although we cannot for the time being rid the world of war, we have tried, are still trying and will keep on trying our best to reduce any possible harm and suffering that war brings to all mankind. This is our understanding of today’s international humanitarianism and this will be the course unswervingly pursued by the CPLA.

The advance of global integration has made this planet smaller and smaller, and with the increasingly frequent communica-

tions between the various countries, our interests have become more and more closely intermeshed. Any war or armed conflict, wherever it may occur in this small world, will have a more direct impact than ever upon each one of us. The rapid development of science and technology has made modern wars even crueller, which in turn raises unprecedented challenges to the application and implementation of the law of war. The Geneva Conventions came into force fifty years ago, but we still have a lot to do and a long way to go before we can have not only a lasting but also an eternal peace. With that ultimate aim, the CPLA will continue its work of dissemination and education in the law of war, will pay more attention to the outside world, will try to take a more active part in international activities relating to international humanitarian law and will further strengthen its cooperation with the International Committee of the Red Cross (with which it has been working for years and has achieved a great deal, especially in spreading knowledge of that law) and other peace-loving international organizations in various fields in order to make its due contribution to promoting international humanitarian law and the peace of the world as a whole.



Résumé

L'héritage humanitaire de la Chine et l'enseignement du droit international humanitaire au sein des forces armées de la République populaire de Chine

par HE XIAODONG

Un bref regard sur l'histoire de la Chine montre que les princes et les stratèges ont toujours insisté sur la nécessité de ménager la population civile dans la guerre, car, sans le soutien du peuple, il ne serait pas possible de contrôler un pays. Un proverbe chinois dit: «Pour gagner une guerre, il faut d'abord gagner le cœur des gens». Au début de la guerre révolutionnaire en Chine, Mao Zedong a promulgué des directives qui vont dans le même sens, en insistant particulièrement sur la discipline des soldats. Sous une forme adaptée, ces directives sont valables encore aujourd'hui. L'auteur décrit les mesures prises et les programmes en cours actuellement au sein de l'armée chinoise pour diffuser les connaissances nécessaires en droit international humanitaire parmi les officiers et la troupe. Il conclut en constatant que même après la fin de la guerre froide, les Conventions de Genève n'ont rien perdu de leur importance.