

VIET-NAM

INFORMATION NOTES

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PRISONERS OF WAR

"This is not a political or military issue, but a matter of basic humanity. There may be disagreement about other aspects of this conflict, but there can be no disagreement on humane treatment for prisoners of war. I state again our readiness to proceed at once to arrangements for the release of prisoners of war on both sides."

— President Richard Nixon,
Foreign Policy Report to
the Congress February 18, 1970

The United States Government is deeply concerned about American prisoners of war in Southeast Asia. Some of our men have been held for 4 or more years with little or no word to their families. There is unmistakable evidence that they are being mistreated, in violation of the Geneva Convention of 1949 Relative to the Treatment of Prisoners of War.

This government is fully committed to doing everything practicable to alleviate the plight of captured Americans and achieve their earliest possible release and return home.

President Nixon, Vice President Agnew, Secretary of State Rogers, Secretary of Defense Laird, and Under Secretary of State Richardson have expressed their concern about the welfare of the prisoners and are utilizing every available channel to convince North Viet-Nam that it should honor its obligations as a party to the Geneva Convention. In testimony before the House Committee on Foreign Affairs last July, Secretary Rogers stated:

"I think the position of the other side, certainly in terms of prisoners, is inhumane. It violates the Geneva Convention. By any human standard, it is totally inexcusable."

Ambassador Henry Cabot Lodge, who headed the U.S. delegation at the Paris peace talks in 1969, pressed the other side on this issue at virtually every plenary session of the talks.

"International custom, the Geneva Convention, and humanitarian considerations all require that there be impartial inspection of the prisoner of war camps, a guarantee of a regular flow of mail to and from the prisoners, and a release of the sick and wounded on both sides," Mr. Lodge stated at the 33d plenary

session. "In addition," he added, "a minimum regard for the peace of mind of the prisoners' next of kin requires that a list of names of the prisoners be made available so that the next of kin at least know whether their relative is alive or dead."

Ambassador Philip C. Habib, present head of the U.S. delegation, has returned to this subject repeatedly. On December 30, 1969 he called attention to the other side's refusal to provide the information on all prisoners by handing them a list of the names of over 1,400 U.S. military personnel who are missing and possibly captured in Southeast Asia. In another statement devoted entirely to prisoners of war on February 5, 1970, Ambassador Habib said:

"The question of prisoners of war is not only a burning humanitarian question, but also a question of your solemn legal obligation. Its solution must not await an overall settlement of the political and military issues involved here. World opinion demands no less. We desire to engage in meaningful discussion of all prisoners-of-war questions with your side now. We await your serious response."



Petitions signed by over 50,000 concerned Americans are presented to Under Secretary of State Elliot L. Richardson (left) and Gen. James F. Collins, President of the American Red Cross (right) by Rep. W. Ross Adair, 4th District, Indiana (center). The petitions, which ask for humane treatment of our prisoners of war, have been forwarded to the Communist authorities by the American Red Cross.

Secretary of Defense Laird noted recently the special effort the U.S. has made to "lay the facts about these men before the tribunal of world opinion" in order to persuade Hanoi to observe the rules of the Geneva Convention, and to ease the ordeal of the wives and parents of missing servicemen. Under Secretary of State Richardson has added: "It is hard to see what Hanoi hopes to gain by denying the prisoners the basic right to communicate with their families."

UNITED STATES ACTIONS

Since the start of the Viet-Nam conflict, the U.S. Government has made intensive efforts through a wide range of diplomatic and other channels, public and private, to arrange proper treatment for prisoners of war on both sides. We have had the support in this endeavor of many governments, including neutrals and some who on other aspects of the Viet-Nam conflict disagree with U.S. policies. These governments recognize that the treatment of prisoners is a humanitarian issue which should be kept separate from the political and military issues in any conflict.

One of Secretary Rogers' first acts upon assuming office was to give Under Secretary Richardson overall responsibility for State Department actions concerning our servicemen and civilians who are prisoners or missing in action. This designation reaffirmed our government's commitment at the highest levels to continue to do everything possible to assist and protect Americans held by North Vietnamese, Viet Cong, and Lao Communist forces, to obtain their earliest possible release, and to encourage full compliance with the Geneva Convention of 1949.



A mother and two wives of U.S. prisoners in North Viet-Nam are questioned by reporters as they leave North Vietnamese delegation headquarters in Paris. Their appeal for information about their loved ones was rejected.

Under Secretary Richardson maintains close liaison with the White House, the Defense Department, the military services, and with the U.S. delegation at Paris. In the Defense Department, the Assistant Secretary for International Security Affairs serves as chairman of the Defense Department Prisoner of War Policy Committee, which works closely with the State Department and other concerned agencies.

Families of prisoners and missing personnel are kept informed by the military services and by the Defense and State Departments. In the past year senior State and Defense Department officials met with nearly 2,000 prisoner relatives—wives, parents, and other family members—to advise them of the steps being taken to obtain proper treatment and release of the prisoners, and to assure them that there will be no letup in our efforts until they are successful.

The concern of the highest officers of the executive branch is shared by the Congress. A concurrent resolution has been unanimously approved in both Houses protesting the treatment of U.S. prisoners of war and endorsing efforts by the United States, United Nations, and International Committee of the Red Cross to obtain their humane treatment and release. The resolution reads, in part:

"Resolved by the House of Representatives (the Senate concurring), That the Congress strongly protests the treatment of United States servicemen held prisoner by North Vietnam and the National Liberation Front of South Vietnam, calls on them to comply with the requirements of the Geneva Convention, and approves and endorses efforts by the United States Government, the United Nations, the International Red Cross, and other leaders and peoples of the world to obtain humane treatment and release of American prisoners of war."

H. Con. Res. 454, approved by a vote of 405-0 in the House of Representatives December 17, 1969, and by the Senate February 18, 1970

In a purely private undertaking, a number of wives and other relatives of men missing in action have traveled to Paris and elsewhere to ask North Vietnamese and NLF representatives to tell them whether their men are alive or dead. The Communist delegations reverted to the political expedient of accusing the United States of "exploiting family sentiment". They told the wives their requests would be forwarded to Hanoi for consideration and that families of other missing or captured personnel could write to them in Paris for information. Hundreds of next of kin have

written requesting this information without receiving any reply.

While some prisoners have been allowed to send letters, the great majority of the missing and captured personnel have never been heard from or identified. Appeals have been made by some wives and relatives to His Holiness Pope Paul VI, and to government leaders in India, Sweden, Laos, Romania, Japan, and the U.S.S.R. for their intercession in contacts with Hanoi.

WORLD CONCERN

"It is the view of the Secretary General that the Government of North Viet-Nam ought to give an international humanitarian organization such as the League of Red Cross Societies access to the Americans detained in North Viet-Nam."

- Secretary General U Thant
United Nations, October 30, 1969

Many governments and world leaders (e.g., U.N. Secretary General U Thant, His Holiness Pope Paul VI) have interceded on behalf of U.S. prisoners in Southeast Asia. World opinion has condemned North Viet-Nam's intransigent position. At the United Nations, more than 100 members of which are parties to the Geneva Convention, U.S. Ambassador Rita Hauser called attention to Hanoi's record on prisoners, and expressed U.S. concern as follows:

"... many hundreds of American soldiers, airmen, marines and naval personnel are at present missing or captured in Viet-Nam. How many of these men, and which ones, are in captivity is a secret closely guarded by the North Vietnamese authorities. For each of these men there is a wife, a child, a parent, who is concerned with his fate. They are subjected to uncertainty and despair which grow as each day passes.

"Our concern in this matter, expressed here before the assemblage of nations, is humanitarian, not political. This concern was succinctly but urgently expressed in the agonizing question put by the many wives who have gone to Paris to ask the North Vietnamese delegation to the Paris talks: Please tell me if I am a wife or a widow."

- United Nations,
November 11, 1969

Newspapers in major cities of the world have condemned North Viet-Nam's disregard of the Geneva Convention.

"Hanoi, which only too often talks about war crimes, is not willing to talk about war prisoners," the *Dusseldorf Handelsblatt* commented on June 16. "It is playing a cynical game with human misery. The North Vietnamese are obviously counting on extorting political concessions in this way from the United States."



Wives of U.S. prisoners requesting guard at N.L.F. villa outside Paris to accept letters and package of medical supplies for their husbands.

Geneva's *Tribune de Genève* stated: "The blackmail is evident. Hanoi is speculating on the anguish of the prisoners' families, and on their country's humanitarian sentiments, to extort a capitulation from President Nixon. This fashion of linking the fate of prisoners with the pursuit of war aims is not new, but it is nonetheless revolting and in flagrant contradiction of the spirit of the Geneva Convention."

The Paris *Le Figaro* observed: "This state of affairs is completely abnormal. The Government of North Vietnam in 1957 signed the Geneva Convention which defines the treatment that must be accorded to prisoners of war and combatants ... It is inconceivable that a government which claims to fight for justice and liberty would violate rules that are designed to insure that a certain degree of humanity is respected for the well-being of those who have ceased being combatants."

Svenska Dagbladet, Stockholm, said on November 30, 1969: "There still might be hope to persuade North Vietnam to change its attitude (about the prisoners) ... What would be more humanitarian than for North Vietnam to meet the wishes for some basic information about human lives? It is difficult to see what Hanoi would have to lose from such a gesture."

The *Japan Times* accused Hanoi of engaging in "a cruel sport with the feelings" of the families and loved ones of Americans who know only that their men are "missing." Adding that "It would seem to us that the listing of the names of their prisoners would in no way affect the North Vietnamese war efforts," the Times concluded: "Their primary interest is to use not only the prisoners, but also their wives and families, for political purposes."



ICRC representatives regularly visit all PW camps in South Viet-Nam, where they talk privately to individual prisoners.

Oslo's *Morgenbladet* stated: "We consider the methods of North Vietnam utterly reprehensible. A nation which does not respect international agreements to which it is a party cannot be recognized as a worthy member of international society."

The International Conference of the Red Cross, the highest governing body of the Red Cross which meets every four years, has expressed its concern about the treatment of prisoners of war at its last two meetings. The 20th International Conference at Vienna in 1965 deplored the conduct of governments which, although parties to the Geneva Convention, have failed to honor the obligations they incurred when they acceded to the treaty. The conference adopted a resolution which called upon "all authorities involved in an armed conflict to ensure that every prisoner of war is given the treatment and full measure of protection prescribed by the Geneva Convention of 1949."

At its 21st International Conference at Istanbul in September 1969, attended by representatives of 77 governments and 91 Red Cross Societies, a resolution was adopted without dissent (114-0) appealing for humane treatment of prisoners of war in accordance with the Geneva Convention. Neither North Viet-Nam nor its Red Cross Society attended the conference, and the solemn appeals of the International Red Cross Conference appear to have fallen on deaf ears.

Thus far, North Viet-Nam and the NLF have failed to observe internationally recognized standards of humanitarian treatment for prisoners they hold. Hanoi's representative at Paris has said: "The question of captured

American military personnel will be settled at the same time as all the other elements of the overall... solution. It cannot be separated." North Viet-Nam has repeatedly refused even to discuss the humanitarian aspects of prisoner treatment prior to the "complete and total withdrawal" of U.S. forces.

In these circumstances, it is important to set the record straight on the rights of prisoners of war and the policies of the parties to the conflict.

SPECIAL STATUS OF PRISONERS OF WAR UNDER THE GENEVA CONVENTION

Prisoners of war are entitled to a special status under international law because there is no justification for the injury or mistreatment of members of armed forces who have fallen into the hands of the enemy and no longer present any military threat. Because prisoners of war are unable to protect themselves, international law requires that their persons and honor be respected and that they be protected from both physical and mental abuse. Although no nation today claims a right to mistreat prisoners of war, specific safeguards are necessary to insure their proper treatment. These protections are provided by the Geneva Convention Relative to the Treatment of Prisoners of War of August 12, 1949.

This convention requires that "prisoners of war must at all times be humanely treated." It establishes standards for PW camps and for the food, clothing, and medical care of prisoners. Among other matters, the convention regulates the labor of the prisoners of war and their discipline. It guarantees them the services of a "Protecting Power" and communication with their families. Finally, the convention guarantees the right of repatriation. Seriously sick and wounded prisoners of war must be allowed to return home as soon as they are fit to travel, even if hostilities continue. All others who are not released during hostilities must be given that opportunity as soon as active hostilities have ceased.

The specific protections afforded prisoners of war by the Geneva Convention are vital to their safety and well-being. The United States, South Viet-Nam, and our troop-contributing allies have applied the convention in the current hostilities and will continue to do so.

North Viet-Nam, the Viet Cong, and the Communist Lao Patriotic Front, however, have refused to abide by the humanitarian principles enunciated in the Geneva Convention. The NLF has taken the position that it is not bound by the convention. The ICRC has affirmed that the Viet Cong are bound by the adherence of both North and South Viet-Nam.

APPLICATION OF THE GENEVA CONVENTION

"North Viet-Nam has frequently said that its policy is to treat the prisoners 'humanely' and 'leniently', and the NLF as well as the Communist authorities in Laos have echoed this claim. In a sense, we are simply asking the Communists to live up to their own statements, and to allow this to be verified in the simple manner prescribed by international law and tradition, namely that the prisoners be visited at their places of detention by representatives of an impartial intermediary."

- Deputy Assistant Secretary of State William H. Sullivan,
testimony before the House Foreign Affairs Subcommittee
on National Security Policy November 13, 1969

At times North Viet-Nam has attempted to justify its refusal to extend the protections of the Geneva Convention to the captured Americans on the ground that the convention does not apply in the absence of a declaration of war. They have also contended that American pilots captured in North Viet-Nam are "war criminals" not protected by the Geneva Convention.

Article 2 of the Geneva Convention specifically provides that it "shall apply to all cases of declared war or any other armed conflict which may arise between two or more of the High Contracting Parties, even if the state of war is not recognized by one of them." [Emphasis supplied.] The parties to the conflict in Viet-Nam are parties to the convention. South Viet-Nam acceded on November 14, 1953; North Viet-Nam acceded on June 28, 1957. The United States ratification was deposited on August 2, 1955. [The other countries contributing troops—Australia, Korea, New Zealand, the Philippines, and Thailand—have also ratified the convention.]

The U.S. prisoners are not "war criminals," and in any case North Viet-Nam's statements to that effect cannot deprive them of their rights under the Geneva Convention. North Viet-Nam has frequently made charges of "war crimes" but has refused to allow the ICRC or another impartial observer to verify such allegations. North Viet-Nam also rejected the U.S. Government's proposal in July 1966 for a conference under ICRC auspices on the application of the Geneva Convention to the Viet-Nam conflict. The ICRC has repeatedly confirmed that all prisoners of war held by North Viet-Nam are entitled to the protection of the Geneva Convention.

There are now more than 200 U.S. servicemen who have been listed as prisoners or missing in action in Southeast Asia for more than four years. This is longer than any U.S. serviceman was held prisoner during World War II, or any other war in American history. There are over 1,400 Americans—military personnel and civilians—missing or captured in Southeast Asia. The number of prisoners is

not known because North Viet-Nam and other Communist authorities refuse to reveal who they are holding as prisoners of war. There is also a small number of missing personnel of other countries assisting South Viet-Nam in its efforts to preserve its freedom.

The Geneva Convention requires each party to a conflict to establish an Information Bureau to collect names and other vital information concerning prisoners of war and to forward this information to the powers concerned through the intermediary of a Protecting Power and a Central Information Agency to be created in a neutral country. The ICRC has performed the functions of a Central Information Agency by asking all parties to the Viet-Nam conflict to provide lists of prisoners of war to its Central Tracing Agency.

The names of prisoners of war captured by U.S. and South Vietnamese forces are supplied to the ICRC by the Government of South Viet-Nam. Both North Viet-Nam and the Viet Cong, however, have refused to provide such information.

Some prisoners in North Viet-Nam have been allowed to write their families, but letters are infrequent and irregular, and have been received through various channels, including in some cases American anti-war groups. No letters have been received from U.S. prisoners in South Viet-Nam and Laos. The families regularly write to their loved ones, but there is no assurance that these letters reach the men for whom they are intended. From time to time lists of prisoners in North Viet-Nam, some of them of dubious authenticity, have been made public. The limited information received from North Viet-Nam falls far short of the requirements of the Geneva Convention. Until all prisoners are identified—the simple, humane requirement of the convention—the great majority of families whose men are listed as missing or who have never been heard from suffer the



ICRC doctors conduct regular medical inspections of prisoners in South Vietnamese PW camps.

needless anguish of not knowing whether their loved ones are dead or alive.

North Viet-Nam has several times announced that prisoners could receive packages from their families, and nearly all next of kin have sent parcels, including many to men listed as missing. In the great majority of cases there has been no confirmation of receipt by the prisoner. Families are continuing to send packages every other month but in most cases do not know what happens to them after they reach Hanoi. The same is true of many thousands of letters sent by families, both directly to Hanoi and through the ICRC, which have never been acknowledged or returned.

PROTECTING POWER

Article 8 of the convention prescribes that the "present Convention shall be applied with the cooperation and under the scrutiny of the Protecting Powers whose duty it is to safeguard the interests of the Parties to the conflict."

Acceptance of a Protecting Power is essential to the Geneva Convention and to the protection of prisoners of war. The Protecting Power is usually a neutral government (Switzerland in World War II) which has responsibility for verifying the conditions under which prisoners are detained and to safeguard prisoners' rights as established by the convention. The Protecting Power is entitled to visit privately with prisoners of war, to hear their complaints, to advise them of their rights, and to help resolve disputes between the parties to the conflict over the application of the convention. If formal protection cannot be arranged, the convention requires that a substitute organization or agency such as the ICRC be appointed to assume the humanitarian functions performed by the Protecting Power. No party holding prisoners has the right to deny those prisoners this fundamental protection.

Notwithstanding this clear requirement of the convention, North Viet-Nam has refused to

allow American prisoners of war to have the benefit of a Protecting Power, and it has not permitted the ICRC to perform the humanitarian functions of a Protecting Power. Thus, North Viet-Nam has undercut the very structure of the convention. The Republic of Viet-Nam and its allies have cooperated fully with the ICRC and have enabled that organization to perform the functions of a Protecting Power for prisoners of war in South Viet-Nam.

TREATMENT OF PRISONERS - ATROCITIES

"Prisoners of war must at all times be humanely treated. Any unlawful act or omission by the Detaining Power causing death or seriously endangering the health of a prisoner of war in its custody is prohibited and will be regarded as a serious breach of the present Convention. In particular, no prisoner of war may be subjected to physical mutilation or to medical or scientific experiments of any kind which are not justified by the medical, dental or hospital treatment of the prisoner concerned and carried out in his interest.

"Likewise, prisoners of war must at all times be protected, particularly against acts of violence or intimidation and against insults and public curiosity.

"Measures of reprisal against prisoners of war are prohibited."

- Article 13, Geneva Convention
Relative to the Treatment of
Prisoners of War

The Republic of Viet-Nam, the United States and other troop-contributing countries have taken great pains to insure full compliance with the fundamental provisions of the convention. While some instances of abuse undoubtedly have occurred, alleged violations are thoroughly investigated and those found guilty are punished. The allied command has made every effort to insure that the convention is applied fully, and has sought by a continuing program of education and strict procedures for the processing of captured personnel to prevent possible violations. For example, every PW camp in South Viet-Nam has a copy of the Geneva Convention posted in the prisoners' language in places where prisoners may read it. Every member of the U.S. Armed Forces in Viet-Nam is issued an instruction card on the proper treatment of captives, and similar cards are given to South Vietnamese and other allied military personnel in Viet-Nam. To meet our continuing responsibility for the proper treatment of prisoners of war captured by U.S. forces and turned over to the custody of the Republic of Viet-Nam, U.S. Advisors assist Vietnamese personnel in administering the PW camps.

The record of the other side has caused grave concern. In South Viet-Nam there are repeated instances of murder and mistreatment of prisoners of war by Communist forces. Often the evidence does not emerge until long after the men have been killed or have died of neglect and mistreatment. For example, the brutal



In violation of the Geneva Convention, North Viet-Nam publicly humiliates and exploits U.S. prisoners. Capt. M. N. Jones, USAF, is seen here being driven through Hanoi streets before a mob stirred up by a propagandist using a bull horn.

murders of two U.S. Army personnel, Capt. David R. Devers and Msgr. John J. O'Neill, did not come to light until December 1969, more than three years after their capture and execution by Communist forces. Others have met similar fates: Capt. Humbert R. Versace was murdered after 32 months of captivity; Sfc. Kenneth M. Roraback was killed after 31 months as a prisoner; Sgt. Harold G. Bennett was executed after 30 months of captivity. The last three were killed as announced acts of reprisal—a grave breach of the Geneva Convention. The United States protested these and other killings of prisoners to the ICRC.

Other prisoners have died of disease and maltreatment, aggravated by inadequate food and medical care. Efforts to send relief parcels and medical supplies to prisoners in South Viet-Nam have been consistently rejected by the Viet Cong, despite repeated efforts by wives of prisoners and humanitarian organizations to arrange this.

In North Viet-Nam prisoners have been publicly humiliated, mistreated, and exploited. Widely publicized photographs have shown American pilots being paraded before jeering mobs in Hanoi and displayed at press conferences. The United States has vigorously protested such treatment and in January formally conveyed our objections to the Soviet government for broadcasting messages purportedly recorded by U.S. pilots in North Viet-Nam. Such broadcasts violate the Geneva Convention prohibition against public exploitation of prisoners of war.

The other side's disregard of humane considerations in the treatment of prisoners is exemplified in its rejection of offers by the Government of the Republic of Viet-Nam to release North Vietnamese sick and wounded prisoners. Rather than agree to this repatriation of its own men, the other side demanded the release of all prisoners held by the Government of the Republic of Viet-Nam. At the same time, it has refused to discuss the release of all prisoners of war on both sides.

COERCION OF PRISONERS

Article 17 of the Geneva Convention states that: "No physical or mental torture, nor any other form of coercion, may be inflicted on prisoners of war to secure from them information of any kind whatever. Prisoners of war who refuse to answer may not be threatened, insulted, or exposed to unpleasant or disadvantageous treatment of any kind."

Despite the other side's public claims of "humane treatment" for prisoners the evidence is clear that U.S. prisoners in Southeast Asia have been gravely mistreated, in violation of this Geneva Convention rule. Films and photographs from North Viet-Nam, reports from travelers, and the testimony of released prisoners all confirm this conclusion. North Viet-Nam has refused all efforts by the ICRC



This American prisoner in North Viet-Nam was captured in June, 1967. The picture was taken by a Soviet journalist in December, 1967. The wooden crutch indicates incomplete recovery six months after probable date of injury. (Source: Sovfoto)

and other respected humanitarian bodies to examine the conditions of U.S. prisoners. In the absence of such impartial inspection the other side's claims of "humane treatment" cannot be accepted.

Pictures and films released or approved by North Viet-Nam have shown U.S. prisoners in what appears to be solitary confinement. Such films also raise serious questions as to whether the prisoners are receiving proper medical care and diet, since they show prisoners continuing to suffer from injuries incurred at the time they were captured, and in some cases having lost much weight. Several prisoners have been shown still using crutches after many months of captivity.

In August 1969 North Viet-Nam released 3 U.S. servicemen, two of whom subsequently described their treatment at a press conference at the U.S. Naval Hospital, Bethesda, Maryland, September 2, 1969.

Lt. Robert Frishman, USNR, wounded and captured when his aircraft was shot down on October 24, 1967, gave the following account of the mistreatment of U.S. prisoners by North Viet-Nam:

—Lt. Cmdr. John McCain, who has many broken bones, has been in solitary confinement since April 1968. He will require further medical treatment as soon as he returns to the United States.



Phu Quoc prison camp, one of six camps in South Viet-Nam in which more than 33,000 North Vietnamese and Viet Cong prisoners are interned.

—Lt. Cmdr. Richard Stratton, who refused to say before the press that he had received humane and lenient treatment, was tied up with ropes to such a degree that burns resulted which became infected, leaving large scars on his arms. He was deprived of sleep, beaten, had his fingernails removed, and was put in solitary confinement for 38 days. Facing future torture, Stratton was forced to make appearances before the press and cameras saying he wasn't tortured or brainwashed. He "intentionally walked around glassy-eyed, bowing as we are forced to do in camp, trying to give the impression he is brainwashed and hoping Americans would get the message," said Lt. Frishman. "They did and the rebound hit Hanoi right between the eyes."

"I don't think solitary confinement, forced statements, living in a cage for 3 years, being put in straps, not being allowed to sleep or eat, removal of fingernails, being hung from a ceiling, having an infected arm which was almost lost, not receiving medical care, being dragged along the ground with a broken leg, or not allowing an exchange of mail to prisoners of war are humane," Lt. Frishman told the newsmen.

Seaman Douglas Hegdahl, who was lost at sea and was picked up by North Vietnamese fishermen, was kept in solitary confinement for over 7 months. He was made to stand with his hands over his head for long periods for trying to talk with other prisoners. He reported that many prisoners are not allowed to

send or receive mail, and many have been in solitary confinement for years.

"If Hanoi wants to demonstrate to the world that these men are being treated humanely and are receiving proper medical treatment," Secretary of Defense Laird stated on June 6, 1969, "it must permit inspections of prisoner-of-war camps by impartial groups. It must release the names of all the men whom it holds, and it must permit a regular flow of mail to and from all these men."

CONTACT WITH THE OUTSIDE WORLD

The Geneva Convention provides that prisoners of war are not to be isolated from contact with the outside world. Prisoners are entitled to correspond with their families and friends and to receive parcels. The ICRC or another impartial intermediary must be allowed to visit prisoner-of-war camps, to speak privately with prisoners of war, and to distribute parcels and comfort items to the prisoners.

North Viet-Nam has refused to allow the ICRC, or any other impartial intermediary, to visit prisoners they hold, and the ICRC has not been able to visit prisoners held by the Viet Cong or by Communist forces in Laos. Thus the prisoners have been denied even the minimum guarantees they would be provided by Red Cross inspection. The Communists have also severely limited the right of prisoners to correspond with their families.

In contrast to this record, ICRC delegates and doctors regularly visit PW camps, collecting points, and civil prisons in South Viet-Nam, talking privately to individual prisoners and examining the sick and wounded to make sure they receive proper medical care. Jacques Freymond of the ICRC, reporting on the work of the Committee on Prisoners of War, highlighted the contrasts between North and South Viet-Nam as follows:

"In Viet-Nam it [the ICRC] has so far had limited success. In fact, in spite of repeated representations, it has not been able to obtain the agreement of the Democratic Republic of Viet-Nam to the installation of a delegation in Hanoi nor even to the visiting of prisoners of war.

"On the other hand, the ICRC is represented in Saigon and the delegates are able to visit all prisoner of war camps. They also receive nominal rolls of these prisoners."

ALLIED TREATMENT OF PRISONERS

All prisoners of war taken by the United States and other non-Communist forces in South Viet-Nam are transferred to the custody of the Government of the Republic of Viet-Nam in accordance with article 12 of the Geneva

Convention, which provides that prisoners of war may be transferred to a power which is a party to the convention and willing and able to apply the convention. South Viet-Nam, in statements to the ICRC and in joint communiques with the United States and other troop-contributing countries, has pledged itself to apply the convention and has developed a comprehensive program for humanitarian treatment of prisoners of war.

Classification of Prisoners

Each person detained by U.S. forces is treated as a prisoner of war until he is properly classified in accordance with the convention as other than a prisoner of war. All persons transferred from U.S. control are initially classified by U.S. personnel, and prisoners of war are delivered directly to a PW camp.

Under the Geneva Convention, the main categories of prisoners of war include the regular armed forces of the parties to the conflict; certain civilians accompanying the forces; and guerrilla forces if they are subject to a commander, carry arms openly, wear a uniform or other distinctive sign recognizable at a distance, and comply with the laws and customs of war. By these standards, a great many Viet Cong would not qualify for prisoner-of-war status because they do not wear any uniform, do not carry arms openly, and commonly violate the rules of warfare. These rules would disqualify many guerrillas and other irregular forces. However, South Viet-Nam and the United States have adopted broad definitions for qualifying prisoners of war which are more generous than those provided in the Geneva Convention. Captured North Vietnamese and Viet Cong troops (except terrorists and spies) are classified as prisoners



All prisoners of war taken by U.S. and other non-Communist forces in South Viet-Nam are treated in accordance with the Geneva Convention. U.S. troops are seen providing first aid to a wounded prisoner before transferring him to South Vietnamese authorities.

of war even when they do not fully meet the standards of the Geneva Convention.

This policy is in marked contrast with North Viet-Nam's refusal to give prisoner-of-war status to captured U.S. military personnel, who are uniformed members of the regular Armed Forces of the United States and clearly are entitled to the protections and status of prisoners of war.

Prisoner-of-War Camps

After classification, prisoners taken by U.S. and allied forces in South Viet-Nam are promptly moved into prisoner-of-war camps constructed and operated by the Armed Forces of the Republic of Viet-Nam in accordance with the Geneva Convention. Prisoners are provided with adequate shelter, clothing, food, medical care, and exercise. U.S. military advisers are assigned to all prisoner-of-war camps which are regularly visited by ICRC representatives.

There are six PW camps in South Viet-Nam in which more than 33,000 North Vietnamese and Viet Cong prisoners of war are interned. This figure does not include the thousands of



Prisoners of war at the Bien Hoa PW camp in South Viet-Nam talk with relatives and friends on visitors' day.

enemy cadre who, over the years, have defected and voluntarily returned to the government's side under the "open arms" (Chieu Hoi) program.^{1/}

REPATRIATION OF PRISONERS

The Geneva Convention imposes an absolute obligation to release prisoners of war who are seriously sick or wounded and who wish to return home as soon as they are fit to travel. Other sick and wounded prisoners whose health would be benefitted thereby should be accommodated in neutral countries. The parties to the conflict are required, throughout the duration of hostilities, to endeavor to make arrangements for such accommodation. In addition they may "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." Prisoners of war who are not released during the hostilities and who wish to return home "shall be released and repatriated without delay after the cessation of active hostilities."

The United States Government and the Government of the Republic of Viet-Nam, in cooperation with the International Committee of the Red Cross, are carrying out the obligation to repatriate sick and wounded prisoners of war. Medical doctors of the ICRC are helping South Vietnamese authorities examine prisoners of war who might qualify for direct repatriation during the continuance of hostilities. Although North Viet-Nam accepted the return of some prisoners of war (approximately 100) across the Ben Hai bridge in the demilitarized zone prior to 1967, such repatriations have not been possible since that time because the bridge has been destroyed and the area has been the scene of heavy fighting.

South Viet-Nam has repeatedly sought to arrange the return of seriously sick and wounded North Vietnamese prisoners by other means, such as the regularly scheduled flights to Hanoi of the International Control Commission. (The Commission was established by the Geneva accords to control, among other things, the operations of releasing prisoners of war and civilian internees.) Unwilling to acknowledge that these prisoners are members of its military forces, North Viet-Nam has refused to agree to such arrangements. Instead they have indicated that prisoners could be set free "near the 17th parallel" or in "coastal waters," ignoring the fact that the prisoners in question have serious injuries and require continuing medical supervision. The prisoners themselves, while wanting to return home, have



A Viet Cong prisoner of war detained in a Republic of Viet-Nam PW camp writes to his family.

requested assurance that they will be accepted in North Viet-Nam. Thus far North Viet-Nam has refused to give this minimum assurance.

A total of nine U.S. prisoners have been released by North Viet-Nam and some 25 (including four civilians) by the Viet Cong. But the Communist authorities have shown no interest in negotiations for the release or exchange of prisoners. The Republic of Viet-Nam has freed many hundreds of prisoners of war in South Viet-Nam and sought to return others to North Viet-Nam. The United States returned to North Viet-Nam by boat some 40 North Vietnamese naval personnel, seamen, and fishermen. There were no reciprocal releases of U.S. prisoners from North Viet-Nam, and no releases at all since August 1969.

U.S. POSITION

"North Viet-Nam's refusal to live up to its obligations under the Geneva Convention has caused serious protest and concern. We hope that public opinion in this country and around the world will help convince North Viet-Nam to treat our prisoners humanely and to release them soon."

- Michael Collins
Assistant Secretary of State
for Public Affairs

The United States, together with the Government of the Republic of Viet-Nam and our allies, will continue to insure that enemy prisoners of war are treated in accordance with the Geneva Convention.

We will also continue to press North Viet-Nam, the Viet Cong, and Communist forces in Laos to treat prisoners humanely, to provide information about them, to allow all prisoners to correspond with their families, to permit impartial inspection of prisoner-of-war camps, and to release all prisoners of war as soon as possible.

^{1/}See Viet-Nam Information Note No. 14, "Pacification in Viet-Nam."

VIET-NAM INFORMATION NOTES

Viet-Nam Information Notes is a series of Department of State publications, each of which summarizes the most significant available material on one important aspect of the situation in Viet-Nam. Viet-Nam Information Notes are available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, for 5¢ or 10¢ each (with a 25 percent discount for quantities of 100 or more copies of any one Note mailed to the same address). Remittances, payable to the Superintendent of Documents, must accompany orders. Notes Nos. 13, 14, 15, 10 cents each.

PRESENTLY AVAILABLE ...

1. Basic Data on South Viet-Nam (Dept. of State pub. 8195) summarizes general information on the land, people, history, government, and economy of the country.
2. The Search for Peace in Viet-Nam (Dept. of State pub. 8196) reviews the effort of individuals and governments to bring about a peaceful solution to the conflict in Viet-Nam. The policy of the Government of North Viet-Nam with regard to a peaceful settlement is included.
3. Communist-Directed Forces in South Viet-Nam (Dept. of State pub. 8197) seeks to answer such questions as: What is the Viet Cong? Who are its leaders? How is it related to party and government organs of North Viet-Nam? What are the Communists' objectives?
4. Free-World Assistance for South Viet-Nam (Dept. of State pub. 8213) describes the scope of the international aid program for the Republic of Viet-Nam. It gives facts and figures about the contributions of 36 participating nations (For U.S. aid see Note No. 13).
5. Political Development in South Viet-Nam (Dept. of State pub. 8231) discusses South Viet-Nam's steady progress toward an elected government and representative institutions.
6. Why We Fight in Viet-Nam (Dept. of State pub. 8245) describes the origin of the conflict and the principal reasons for U.S. involvement.
7. Viet Cong Terror Tactics in South Viet-Nam (Dept. of State pub. 8259) describes the deliberate campaign of terror by which the Viet Cong hope to break the resistance of South Viet-Nam.
8. National Reconciliation in South Viet-Nam (Dept. of State pub. 8260) describes the Chieu-Hoi, or Open Arms, program of the Government of South Viet-Nam.
9. Prisoners of War (Dept. of State pub. 8275) explains the special status of prisoners of war under the Geneva convention, allied treatment of prisoners and efforts to discuss with the Communist side repatriation, exchange, identification, etc.
10. Legal Basis for U.S. Military Aid to South Viet-Nam (Dept. of State pub. 8285) discusses the well-established points of law and fact which are the legal basis for the U.S. military commitment in South Viet-Nam.
11. Opinions of Asian and Pacific Leaders (Dept. of State pub. 8363). The leaders of the countries most immediately concerned about the future of Viet-Nam express their views on: the U.S. commitment, the nature of the war, North Vietnamese and Chinese involvement, and peace efforts.
12. Wars of National Liberation (Dept. of State pub. 8384) discusses the origins and characteristics of such wars, Soviet and Chinese involvement in Viet-Nam, and U.S. counterstrategy.
13. The U.S. Assistance Program in Viet-Nam (Dept. of State pub. 8419), the largest and most challenging program administered by A.I.D., is described in detail.
14. Pacification in Viet-Nam (Dept. of State pub. 8473) evaluates the pacification program from December 1967 through April 1969.
15. The Paris Peace Talks (Dept. of State pub. 8500) reviews U.S./Allied proposals at the Paris talks, describes the position of the other side and the actions taken by both sides to facilitate the understanding which preceded the expanded peace talks.
16. Basic Data on North Viet-Nam (Dept. of State pub. 8514) provides general information on the people, government, history, and political conditions in North Viet-Nam.

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