

Report of the Committee of Enquiry into Events in Bizerta, Tunisia

Between the 18th and 24th July, 1961

**INTERNATIONAL COMMISSION OF JURISTS
GENEVA
1961**

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Former President of the General Assembly of the United Nations
Administrative Secretary: EDWARD S. KOZERA
Former Lecturer in Government, Columbia University

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FOREWORD

On September 3, 1961, the International Commission of Jurists, which has Consultative Status with the United Nations Economic and Social Council, was asked by the Government of Tunisia to send a mission to Bizerta to investigate allegations made by the Tunisian Government that French armed forces in Bizerta had been responsible for certain violations of human rights.

On September 5, the International Commission of Jurists sent to Bizerta the following persons as its Committee of Enquiry :

Mr. Gerald Gardiner, Q. C., former Chairman of the Bar
Council of England and Wales;

Mr. Rolf Christopherson, Secretary-General of the Nor-
wegian Bar Association and Secre-
tary-General of the International
Legal Aid Association;

Professor Felix Ermacora, Professor of Constitutional Law
at the University of Innsbruck, a
member of the European Com-
mission on Human Rights and
Vice-Chairman of the United
Nations Commission on Human
Rights.

The Committee of Enquiry has now completed its work and a copy of their report follows.

The International Commission of Jurists has noted with profound gratification that following the cessation of hostilities in and around Bizerta there has been a rapprochement between the French and Tunisian Governments. The Commission has a

duty to enquire into charges involving in any part of the world a breach of the Rule of Law. It has performed that duty and owes a debt of gratitude to the distinguished lawyers who have produced their report. The Commission, relying upon the spirit of conciliation animating both governments, is confident that the report of the Committee of Enquiry, justified as it is on the evidence produced before the Committee, will in no way militate against the resumption of good relations between Tunisia and France, which the Commission has every expectation will continue.

October 12, 1961

SIR LESLIE MUNRO
Secretary-General

**REPORT OF THE COMMITTEE
OF ENQUIRY INTO EVENTS IN BIZERTA,
TUNISIA,
between the 18th and 24th July, 1961**

1. On the 27th August 1961 the Tunisian Government, through the Swedish Government, asked the French Government to agree to an Enquiry being held by the International Red Cross into allegations being made by the Tunisian Government that since the 19th July 1961 French Armed Forces in and around Bizerta had been guilty of intentional homicide, the use of torture, inhuman treatment and the imposition of physical and mental suffering committed against Tunisian soldiers and civilians.

A copy of the communication is attached as Appendix ' A '.

2. On the 28th August 1961 the Tunisian Government asked the International Red Cross to hold such Enquiry.

A copy of the communication is attached as Appendix ' B '.

3. We are informed by the Tunisian Government that they received no reply from the French Government to their communication referred to in paragraph (1) and accordingly, in view of the terms of Article 132 of the Geneva Convention of the 12th August 1949 (III : Prisoners of War) and of Article 149 of the Geneva Convention of the same date (IV : Civilians) which provide for the holding of such an enquiry "in a manner to be decided between the interested Parties", the International Red Cross was unable to accept the invitation referred to in paragraph (2) and so informed the Tunisian Government.

4. On the 3rd September 1961 the Tunisian Government invited the International Commission of Jurists to hold such Enquiry.

A copy of the Communication is attached as Appendix ' C '.

5. On the 4th September 1961 the International Commission of Jurists appointed us : Rolf Christophersen, Advocate of the Supreme Court of Norway, Secretary-General of the Norwegian Bar Association, a member of the Council of the International Bar Association and Secretary of the International Legal Aid Association; Felix Ermacora, Professor of Constitutional Law at the University of Innsbruck, a member of the European Commission on Human Rights and Vice-Chairman of the United Nations Commission on Human Rights; and Gerald Gardiner, Q.C., formerly Chairman of the General Council of the Bar of England and Wales, as such Commission of Enquiry. We appointed Gerald Gardiner, Q.C., to be our Chairman.

6. On the 5th September 1961 the International Commission of Jurists informed the French Government of our appointment and expressed the hope that the French Government would take part in the Enquiry.

A copy of the communication is attached as Appendix ' D '.

We are informed by the International Commission of Jurists that after the conclusion of our Enquiry they received a reply declining their request on the grounds that the matter was one for discussion between Governments.

7. We arrived in Tunis about noon on the 5th September 1961 and we sent by hand to the French Consul, Tunis, the following communication :—

Dear Mr. Royère,

The International Commission of Jurists has informed the Minister of Foreign Affairs of the French Republic that it will send a Committee of Enquiry to Tunisia at the request of the Tunisian Government in order to establish the facts concerning allegations that French armed forces have committed violations of Human Rights in the Bizerta region.

The said Committee is composed of : Rolf Christophersen, Barrister-at-Law at the Norwegian Supreme Court; Felix Ermacora, Professor of Constitutional Law at the University of Innsbruck, Austria; Vice-President of the Commission of Human Rights of the United Nations; and Gerald Gardiner, former Chairman of the Bar Council of England and Wales. The Committee, which is independent and impartial, arrived in Tunis (Hotel Majestic). It intends to interrogate the witnesses for the prosecution and defence and to establish the necessary facts. This work will start in the afternoon of the 6th September 1961. The office will be at the Red Crescent headquarters.

The Committee of Enquiry invites you to attend the above-mentioned investigation and—if you find it necessary—to nominate witnesses or to hear the discussion of the Committee which will be held in public.

Yours sincerely,

GERALD GARDINER

Chairman of the Committee of Enquiry

Mr. ROYÈRE

Consul of the French Republic in Tunis

Tunis

We received a reply regretting that as the matter was one for discussion between Governments he was unable to accept our invitation.

8. We opened our Enquiry on the afternoon of 6th September 1961 at the premises of the Tunisian Red Crescent (the national Red Cross Society), Tunis, and it then appeared that there were numerous witnesses in Bizerta, including Tunisians still prisoners held by the French Armed Forces, who could give relevant evidence, but that entry to, or exit from, Bizerta and an extended area around Bizertan or in the occupation of the French Armed Forces immediately prior to the events hereinafter referred to, it was not possible for anyone without the authority of the French Armed Forces commanded by Vice Admiral Amman.

9. On the 7th September 1961 we therefore sent to Vice Admiral Amman a request for permission to take the evidence of witnesses in Bizerta but received the following reply:—

“The Enquiry which you are holding forms the subject matter of diplomatic discussions between Governments: it is not possible for me to give effect to your request.”

10. Our Enquiry was held at the premises of the Red Crescent, Tunis, and was held in public, from 4 to 7 p.m. on the 6th September; from 8 a.m. to 12 and from 4 to 7 p.m. on the 7th September; from 9 a.m. to 12 on the 8th September, and from 8.30 a.m. to 12.30 on the 9th September. We received numerous documents in evidence and heard 26 witnesses. M. Bahri Guiga represented the Tunisian Government.

All the evidence was recorded in French, evidence in Arabic or English being translated into French by one of the two Tunisian interpreters. We were fully satisfied both of their ability and of their integrity.

The whole of the proceedings were recorded by a stenographer and, after the second session, were also recorded on tape. We also took our own notes. We attach as Appendix ' E ' the evidence given by one of the Tunisian witnesses as a fair specimen of the way in which such evidence was given.

11. Since the end of the second world war the legal position of Bizerta depends primarily upon the following documents :—

(a) Conventions between France and Tunisia signed in Paris on the 3rd June 1955 concerning the internal autonomy of Tunisia.

(b) The Franco-Tunisian accord of the 20th March 1956 concerning the independence of Tunisia.

(c) An exchange of letters dated the 17th June 1958 between M. Mokaddemm and M. Bernard concerning the evacuation of French Armed Forces from Tunisia.

(d) A communication of the 18th June 1958 from the French Government relative to Franco-Tunisian relations.

(e) A communication of the same date from the Tunisian Government to the French Government relative to Franco-Tunisian relations.

12. According to reports made by the Tunisian Government to the Secretary-General of the United Nations on the 20th, 21st and 22nd July, 1961, on and between the 19th and 21st July French Armed Forces attacked Bizerta and its surrounding countryside with troops, tanks, guns from naval forces, low-flying aircraft and parachute troops armed with grenades and automatic rifles.

We consider as outside our terms of reference the question whether any prior Tunisian acts did or did not justify such actions on the part of the French Armed Forces.

13. We are satisfied that, whatever the correct construction of the documents referred to in paragraph (11), there was on and after the 19th July 1961 an " armed conflict " between France and Tunisia within the meaning of Article II of the Geneva Conventions of the 12th August 1949 (III : Prisoners of War and IV : Civilians) to which both France and Tunisia were and are parties.

This being so, we have not found it necessary for the purposes of this Enquiry to express any view as to the legal position of Bizerta.

Most of the events in the subject matter of this report in fact took place outside any area occupied by French Forces prior to the events referred to in paragraph (12).

14. The allegations made by the Tunisian Government fall under four main heads :—

- (a) The burning of bodies in whole or in part.
- (b) The mutilation of the bodies of both soldiers and civilians.
- (c) The summary execution of both soldiers and civilians.
- (d) The treatment of miscellaneous individuals in various ways in violation of Human Rights.

We attach as Appendix 'F', their own outline of the nature of their case.

15. We have had careful regard to the personality and demeanour of the witnesses we have heard. Most of them were Tunisian citizens. Almost without exception they gave their evidence naturally and appeared to us to answer any questions put to them frankly and in our opinion truthfully. They included citizens in many walks of life. The witnesses also included American, British, Finnish and Yugoslav press correspondents, a Belgian Doctor and a Norwegian pastor, all of whom had been in Bizerta at some material time, and all of whom volunteered to give evidence on learning that the Enquiry was being held.

We naturally regretted that we were deprived of the opportunity to inspect the sites referred to in the evidence, but besides the oral evidence there were in evidence before us numerous plans and photographs taken at the time, the contemporary reports of foreign press correspondents and other documents, some of which are referred to below.

While we did not exclude the press reports referred to or any hearsay evidence, all our findings in this Report are in fact based on the direct evidence of witnesses who were personally present at the events they described.

16. Our Conclusions upon the allegation that bodies were burned in whole or in part are as follows :—

- (a) We accept the fact that a number of bodies were wholly burned. Their condition was as shown in photographs 1, 2 and 3 in Appendix 'G'. All the witnesses who spoke of bodies

wholly burned agreed that the condition of the bodies shown in the photographs was the condition of which they were speaking in their evidence.

(b) Most of these witnesses were of the opinion that this condition was caused by napalm bombs. There was, however, evidence that at the material time low-flying aircraft were machine-gunning civilian motor cars and that a number of them were burnt out, and if the occupants were burned alive in them it may be that a similar condition to that in the photographs would be produced. There was also evidence that a Mosque in which civilians had sought refuge was set on fire. We should require further medical and scientific evidence before we were prepared to say what was the precise cause of the condition of the bodies referred to at the beginning of this paragraph.

(c) We accept the evidence that numerous bodies showed burns on various parts of the body. But we have had no evidence put before us upon which we would be prepared to hold that any of these burns were caused to a particular person after he had been taken prisoner. In general there do appear to us to have been an exceptional number of bodies with burns on various limbs but the evidence does not enable us to say how those burns were caused.

17. Our Conclusions upon the allegation that the bodies of both soldiers and civilians were mutilated are as follows :—

In our opinion these cases fall into two groups.

(a) We had evidence, which we accept, of bodies found with a leg or arm cut off, or with the brains protruding or with the bowels extruded, or, as in one case of a pregnant woman, disembowelled with the foetus also killed. It is stated in contemporary press reports that this woman was bayoneted by French Armed Forces but this is not clear from the photograph of the body in evidence before us, nor from the evidence of the press correspondent who gave evidence before us and saw the foetus but did not uncover the body; and accordingly we do not so find. It seems to us that such injuries may well occur in any circumstances in which an attack is being made by low-flying aircraft, bombs and troops armed with grenades and automatic rifles in and around a town the population of which was naturally mainly civilian, and we are not prepared to hold that any of these injuries were deliberately caused to an individual by an individual soldier—still less that they were caused while the former was a prisoner.

(b) On the other hand there were some injuries which must in our view have been deliberately caused. There was evidence, which we accept, of civilians (chiefly of "volunteers") and of soldiers found with one or both ears cut off, so that only the ear hole remained, and of many bodies of civilians and of soldiers with mutilations, apparently caused by bayonets or knives, and in at least one case consisting of a cross in a circle. Photograph number 4 in Appendix ' G ' shows the kind of stab wounds referred to and photograph number 5 in Appendix ' G ', taken in the presence of the press correspondent referred to above, is a case of the cross in a circle. Whether the mutilations referred to in this sub-paragraph took place before or after death we are unable to say, but we are satisfied that they cannot have taken place otherwise than deliberately.

18. Our Conclusions upon the allegation that both soldiers and civilians were summarily executed are as follows :—

(a) We consider it proved beyond any doubt by the evidence called before us that a number of groups of prisoners, mostly young unarmed civilian "volunteers", were shot, usually with their hands tied behind their backs or sometimes in front of them.

(b) These "volunteers" were young civilians of the age of 14 and upwards. Some were dressed in blue overalls or coats and trousers and some in red trousers and sweaters resembling those worn in most countries over shorts and shirts by young men on running tracks. Most if not all were members of the Youth Section of the political party in power. We are satisfied that the "volunteers" did not form part of the Tunisian Armed Forces, that they were civilians and that they were unarmed.

(c) We refer in particular to the following :—

- (i) About 8.30 a.m. on the 23rd July, a French army lorry with a French military driver, a French military captain, a Tunisian member of the Secretariat of the Governorate of Bizerta, four Tunisian Bizerta Hospital workers and a Tunisian policeman, found at Bordj Taleb, some 4 kilometers to the north west of Bizerta, some 60 to 65 bodies which, apart from one civilian caretaker, were all bodies of volunteers naked to the waist but with blue trousers on who were aged from about 18 to 30. While there were houses not far away, the bodies were found outside a quarry, some under trees and some under a bridge, in groups

of 10 to 20, some face down and some face up. They had been riddled with rifle bullets. Of the 60, 45 had their hands tied together, some in front and some behind their back, with wire, cord, cloths or shirts. One had had his head cut in two, and two were either without arms or legs. Some also had stab wounds. They were taken to El Ain Cemetary, Bizerta, 25 in the French army truck and the remainder in two Tunisian ambulances.

- (ii) The French soldier refused to allow the 25 bodies to be searched for identity papers because, he said, he was in a hurry. Identity papers were subsequently removed from the remaining bodies by one of the witnesses and taken to the Red Crescent. A witness from the Red Crescent produced the original identity papers to us. We attach as Appendix 'H' a schedule of these identity papers giving the names, place of residence and the nature of the identity papers.
- (iii) On the afternoon of the same day four other hospital workers from Bizerta Hospital and a driver found at Bir Chouka 27 bodies, and at Bir Massiougha 37 bodies. Both are to the north west of Bizerta and not far from Bordj Taleb.
- (iv) They were all volunteers and had been riddled with rifle bullets, mainly in the stomach. Some of the bullets were in their bodies and some were found on the ground beneath them. Their ages were variously estimated by the witnesses within age ranges of 19 to 28. Some lay on their faces and some on their backs. They all had their hands tied behind their backs with wire, cord or, in some cases their own shoelaces. Many of those at Bir Chouka had stab wounds in their chests, faces and/or stomachs. One had had his throat cut and one had had his head cut off. The 64 bodies were taken to El Ain Cemetary and buried there. The driver and 3 of the 4 hospital workers referred to above gave evidence before us as well as a fifth witness, a farmer, who had been the first to find the bodies and had reported their location to the hospital authorities.
- (v) On the morning of the 21st July, about 15 or 20 young Tunisians, stripped to the waist, were seen standing with their hands over their heads in the French police station at Menzel Bourguiba, which is some 20 kilometers south of Bizerta.

- (vi) In the afternoon of the same day the bodies of some 30 young civilians, stripped to the waist, were collected from the Maritime Hospital, which is about 50 meters from the French police station, but which forms part of the same building.
- (vii) In our opinion it was not proved that the bodies collected from the Maritime Hospital included the bodies of the young men who had been seen earlier in the French police station.
- (viii) On the same day a further 12 young naked male bodies were collected from the Maritime Hospital, Menzel Bourguiba. They had had their hands tied. They had been shot. Some also had stab wounds.

(d) On the 22nd August the Tunisian Government, having heard of these allegations, but being reluctant to believe them, asked a commission consisting of the President of the Order of Medicine, a Deputy of the National Assembly, 2 Divisional Medical Inspectors, 2 surgeons of the Bizerta Hospital, 2 doctors of the Bizerta Hospital, 2 other surgeons of Bizerta and 2 other doctors of Bizerta, a Belgian doctor, an Italian doctor, a Spanish doctor and a Turkish doctor, to go to this cemetery and exhume some of these bodies. Three bodies were chosen at random. Of these three, one had the two wrists tied together and the other had a piece of wire around one wrist and in the opinion of a Tunisian doctor and of a Belgian doctor who were members of the Commission of Exhumation, and who gave evidence before us, there was evidence that at or shortly before the time of death one of them was struggling to free himself from the bonds.

We attach as Appendix ' I ' the Procès-Verbal of this exhumation. Photograph number 6 in Appendix ' G ' was identified by one of the doctors as one taken on that day of one of the bodies referred to. The Tunisian Government informed us that other members of this Commission were available but, having heard the evidence of the Tunisian and Belgian doctors referred to who were shown the original of the Procès-Verbal and identified their signatures on it, and having regard to the Procès-Verbal, we were of the opinion that it was sufficient if one Tunisian doctor and one non-Tunisian doctor, members of the Exhumation Commission, were called and their evidence appeared clearly to be true.

(e) We were naturally reluctant to believe that any troops had deliberately executed groups of young civilians who were in their

custody and the refusal of the French authorities to give any answering evidence has only made us the more anxious to consider any possible explanation there might be. But the facts are in our view not open to doubt and the only possible innocent explanation we can think of is that these young men, though unarmed, had, in the view of the French military authorities, committed some offence, had been tried by some military court, had been duly sentenced to death and had been duly executed.

(f) In our opinion such an hypothesis is not reasonably possible for the following reasons :—

- (i) It is most improbable that such courts could have been set up and the evidence obtained, and all the charges made, and all the prisoners tried and the sentences carried out in a period of at most three days. Moreover no report of any such sentence was made by the French Government to the Protecting Power in accordance with Article 107 of the Geneva Convention (III : Prisoners of War) and in any case by the provisions of Article 101 thereof no such sentence could properly have been carried out for at least 6 months.
- (ii) The witnesses were in agreement that the position of the bodies showed that they had not be executed elsewhere and then been brought to the place where they were found, but had fallen where they were found. Indeed some of the bullets were found beneath the bodies. Yet the places in which they were found in cases (c) (i) and (ii) above were not in, or immediately adjacent to, any French military barracks; they were in country districts, in fields or under olive trees or under bridges.
- (iii) Neither the French Government nor the French Armed Forces have ever suggested such an explanation.
- (iv) The evidence was consistent only with death being in all cases caused by a fusillade of bullets as from a machine gun or automatic rifle, the large majority of such bullets being in the stomach, which is not a usual mode of execution by a firing squad after a lawful sentence.

(g) In our opinion the only conclusion which can reasonably be drawn from the whole of the evidence which we have heard is that it was the general practice of one or more units of the French parachute troops to take groups of young " volunteers " prisoner,

to tie their wrists behind their back, or sometimes in front, and later either release them or to take them to a field and shoot them with their automatic rifles.

We should add that in a few such cases a few Tunisian soldiers in uniform, apparently treated in exactly the same way, were among the groups of bodies.

19. With regard to the allegations of various actions allegedly violating Human Rights, there was evidence, which we accept, of the following incidents :

(a) On the 20th July, a civilian, a caretaker of premises in Bordj Taleb left the premises with his hands above his head saying that he was only a caretaker, but was shot by French forces. His companion caretaker, then left the premises and a French parachute soldier put a gun in his stomach and asked him where the volunteers were hiding. When he said that he did not know the parachute soldier struck him, breaking two of his ribs and took him prisoner with 28 other civilians. They all had their hands tied behind their backs with ordinary cord. After 8 days he was released.

(b) On the 23rd July a witness saw alongside a road at Sidi Ahmed a number of bodies of Tunisian soldiers being buried in a ditch by French parachute troops. One "body", from which the hands had been cut off, was in fact alive and had called out to him and asked him to inform the Red Crescent. Another "body" had also cried out.

(c) On the 20th July at the Stadium, two of the foreign press correspondents saw the bodies of about 30 young Tunisians of whom at least a third were civilians, including one girl, who appeared to have been killed by bullets from automatic rifles at close range, mainly in the stomach.

(d) On the 20th July in Bizerta a crowd of civilians, mainly women and children but including some young men, went to the barrier and made a demonstration and were fired on by French troops who killed 5 and wounded 7 others.

(e) On the 23rd July some 34 bodies of soldiers were collected from Ain Faroua. They showed burns on their hands and arms. Some had the ears cut off so that nothing remained but the ear-holes. In one case the sexual organs had been cut off except that it was hanging by a small piece of skin.

We were satisfied that there were other incidents of the same general character which we have not thought it necessary to detail.

We were also satisfied that in the cases referred to above, other than that referred to in paragraph 18 (c) (i) and in one or two other cases (where the bodies were identified) it was either impossible or impracticable to identify the bodies or understandable that they were not identified, either because, having no clothes on, there were no identity papers, or because of the state of decomposition and the accompanying stench (in some cases gas masks had to be worn) or because of other surrounding circumstances.

Except that we think that most of the evidence of one witness was an indistinguishable mixture of what he had seen and what he had heard (which evidence we have accordingly rejected), the evidence of the remainder of the witnesses as to these allegations was, in our opinion, reliable.

The most serious allegation was in our view that under head (b). The only witness upon this allegation was a witness of 22. But he appeared to be relating clearly and simply what he had seen—particularly as to the man who was being buried alive and asked that the Red Crescent should be told. While his evidence was not corroborated we were informed by M. Guiga on the instructions of the Tunisian Government that there were witnesses in Bizerta who could corroborate him if the French authorities would allow their evidence to be taken. We were supplied with a list of names and location of further witnesses in Bizerta whose evidence we were also by the action of the French authorities prevented from taking. In the circumstances we accept his evidence though not corroborated.

20. Our general conclusion therefore is that, whatever the legal status of Bizerta may be, French Armed Forces between the 18th and 24th July, 1961, in Bizerta and within an area of about 20 kilometers from Bizerta executed prisoners, particularly young civilian prisoners and in some cases deliberately mutilated bodies, whether before or after death, and were also guilty of other acts in violation of the provisions of the two Geneva Conventions referred to above and in violation of any conception of Human Rights within the content of the Universal Declaration of Human Rights.

We attach as Appendix "J" the more relevant Articles of the Geneva Conventions referred to.

21. We think it right to add that we have heard no evidence directly implicating the sailors or troops ordinarily stationed in Bizerta, but only the parachute troops brought in on and after the 19th July.

22. We also think it right to say that the case for the Tunisian Government was presented before us in a dignified and restrained manner.

23. We desire to acknowledge the facilities afforded us by the Tunisian Government but think we should make it plain that all our expenses were met by the International Commission of Jurists of their own funds. We also desire to thank the Tunisian Red Crescent for having placed their premises at our disposal for the holding of the Enquiry.

24. Our Report is unanimous.

September 18, 1961

Gerald GARDINER

Rolf CHRISTOPHERSEN

Félix ERMACORA

APPENDIXES

APPENDIX A

Note from the Tunisian Embassy at Stockholm to the Swedish Minister of Foreign Affairs. (August 27, 1961)

The Embassy of the Tunisian Republic in Sweden presents its compliments to the Royal Minister of Foreign Affairs and, acting under the instructions of its Government, has the honour to request it kindly to transmit to the French Government, through the intermediary of the Royal Embassy of Sweden in France, the text of the message given below, addressed today to the President of the International Red Cross Committee in Geneva by His Excellency Mr. Sadok Mekkaddem, Secretary of State for Foreign Affairs in the Tunisian Government :

" Since 19 July, the territory of the Tunisian Republic is the theatre of an armed conflict between France and Tunis, despite the fact that war has not been declared by the one or the other country. A part of the Delegations of Bizerte and of Menzel-Bourguiba are, furthermore, subjected to a regime of de facto occupation by French troops.

" Both during the combat that took place in Bizerte from 19 to 22 July inclusive, and following the cease-fire ordered by the Resolution of the Security Council on 22 July last, the Tunisian Government has been brought to realize, by its representatives and by the Tunisian Red Crescent, as well as by detailed and precise evidence of numerous and concordant witnesses, that the gravest violations have been committed by the French military authorities stationed in Bizerte, and that certain provisions of the Geneva Conventions of 12 August 1949 have not been observed, particularly those dispositions relating to intentional homicide, the use of torture, inhuman treatment, and physical and moral suffering.

" The Tunisian authorities have just recently ascertained that a significant number of persons were summarily executed, and under atrocious conditions, by the French forces. The investigation begun on this subject, having elicited some positive material, was broken off, so as to permit the implementation of the procedure laid down under Article 149 of Convention No. IV of 12 August 1949.

" To this end, the Tunisian Government, desirous of bringing fully to light the grave infractions committed or ordered on its territory by the French forces, considers itself under the obligation to lay the matter before the International Red Cross Committee, so that a Commission may come to Tunis to investigate these violations. Such a mission could comprise both representatives of the French and of the Tunisian Governments, as well as representatives of neutral powers.

" The Tunisian Government, for its part, is prepared to accord the most extensive facilities to the Commission of Enquiry. It hopes that the French Government, on its side, will not reject the implementation of the provisions of the Geneva Conventions relating to the enquiry procedure."

The Tunisian Government will be grateful to the Swedish Government if it will kindly indicate to the French Government that it hopes this latter will designate its representatives to the Enquiry Commission proposed in the above message, so that light may be shed on the facts asserted.

The Embassy of the Tunisian Republic in Sweden warmly thanks the Royal Ministry of Foreign Affairs for its kind intervention and takes this occasion...

Stockholm, 27 August 1961

(signed) : KLIBI

APPENDIX B

Complaint sent by telegram on 28 August 1961 by the Tunisian Government to the President of the International Red Cross Committee, Geneva

The territory of the Tunisian Republic has been, since 19 July, the theatre of an armed conflict between France and Tunis, despite the fact that war has not been declared by the one or the other country. A part of the Delegations of Bizerte and of Menzel-Bourguiba are, furthermore, subjected to a regime of de facto occupation by French troops.

Both during the combat that took place in Bizerte from 19 to 22 July inclusive, and following the cease-fire ordered by the Resolution of the Security Council on 22 July last, the Tunisian Government has been brought to realize, by its representatives and by the Tunisian Red Crescent, as well as by detailed and precise evidence of numerous and concordant witnesses, that the gravest violations have been committed by the French military authorities stationed in Bizerte, and that certain provisions of the Geneva Conventions of 12 August 1949 have not been observed, particularly those dispositions relating to intentional homicide, the use of torture, inhuman treatment, and physical or moral suffering.

The Tunisian authorities have just recently ascertained that a significant number of persons were summarily executed, and under atrocious conditions, by the French forces. The investigation begun on this subject, having elicited some positive material, was broken off, so as to permit the implementation of the procedure laid down under Article 149 of Convention No. IV of 12 August 1949.

To this end, the Tunisian Government, desirous of bringing fully to light the grave infractions committed or ordered on its territory by the French forces, considers itself under the obligation to lay the matter before the International Red Cross Committee, so that a Commission may come to Tunis to investigate these violations. Such a mission could comprise both representatives of the French and of the Tunisian Governments, as well as representatives of neutral powers.

The Tunisian Government, for its part, is prepared to accord the most extensive facilities to the Commission of Enquiry. It hopes that the French Government, on its side, will not reject the implementation of the provisions of the Geneva Conventions relating to the enquiry procedure.

APPENDIX C

*Cable received by the International Commission of Jurists from the
Tunisian Government (September 3, 1961)*

State Priority
President International Commission of Jurists
6 rue du Mont-de-Sion
Geneva

The Secretariat of State for Foreign Affairs has the honour of confirming the approaches made to the International Commission of Jurists by the Chargé d'Affaires of the Tunisian Embassy Mr. Torgeman concerning the international investigation which the Tunisian Government hopes to see undertaken regarding the violations of human rights recently Committed by the French Armed Forces in the area of Bizerta. The Tunisian Government will be grateful to the International Commission of Jurists for designating legal and medico-legal personalities who are ready to participate in this investigation in order to serve the cause of law and respect for the individual.

With Respect

TAIEB SAHBANI
Secretary General
Foreign Affairs

APPENDIX D

*Cable sent by the International Commission of Jurists to the
Prime Minister of France*

September 5, 1961
Ref. 1/2659

His Excellency
MICHEL DEBRÉ
Prime Minister
Paris

At the request of the Tunisian Government we have the pleasure of informing Your Excellency that the International Commission of Jurists has set up a Committee of Enquiry consisting of Messrs. Rolf Christophersen, Secretary-General of the Norwegian Bar Association; Felix Ermacora, Professor of Law, University of Innsbruck and Gerald Gardiner, Barrister-at-Law, former Chairman of the Bar Council of England and Wales. This Committee left Geneva to-day to inquire into allegations made by the Tunisian Government that Tunisian soldiers and civilians taken prisoner by French forces have been shot.

We understand that Your Government has already been informed of this by the Tunisian Government and has been requested to take part in the enquiry. No reply however has been received. The Committee of Enquiry, completely independent and set up by the International Commission of Jurists for this matter, has the pleasure of repeating this request addressed to Your Government by the Tunisian Government. The Commission expresses the hope that it will be possible for you to instruct your Consul in Tunis as well as your Military Commander in charge of Bizerta to accord all necessary facilities to the Committee of Enquiry and to assist them in their task.

For your information I have the pleasure of informing you that the Committee of Enquiry will stay in Tunisia for a few days.

With the hope that it will be possible for you to telegraph a favourable reply to the International Commission of Jurists in Geneva and with anticipated thanks, we have the honour, to remain.

Yours sincerely,

International Commission of Jurists

APPENDIX E

SPECIMEN OF EVIDENCE

Testimony of Houcine el Allouche

The witness took the oath and gave his address.

Chairman — What is your occupation?

A. — Secretary in the Governorate of Bizerte.

Q. — How old are you?

A. — 32.

Q. — Are you a Tunisian citizen?

A. — Yes.

Q. — Tell us on what date you witnessed the events of Bizerte?

A. — Sunday, 23rd July 1961.

Q. — Will you tell us what you remember?

A. — Sunday we went out in a French military lorry with a French militiaman and a French captain. I was with a Mr. ABDELAZIZ THABET, a policeman, HEDI BOU ZID, and Mr. BEN AISSA. I don't know the names of the other two persons who accompanied us.

Professor Ermacora — Why did these six Tunisians go out in a truck? Who gave you the order?

A. — Our superiors at the hospital gave us this order.

Chairman — What were you doing?

A. — I was at the hospital. We drove off and went to La Pêcherie to look for the dead. We found a soldier dead and buried. We got down, took his identity and indicated the place where he was buried. Afterwards, we climbed back in and went to BENI NAFAA, where we found a soldier dead but not buried. We took him up and put him in the truck. Farther on, we found some papers burnt. In this same place, we found a Jeep car with French soldiers in it. They gave us the order to go with them. We went, the truck behind the Jeep, to Bordj Thaleb. There we found about 60 dead, arranged

in groups of 10 to 20, under the trees, and under a bridge. We noted, amongst other things, that out of these 60 dead, 45 had their arms and feet bound, either in front or behind, with steel wire, cord, shirts and even towels.

Among these 60 corpses, there was one man whose skull had been split in two. Another corpse had a wound on the left side, made by a dagger or some other such arm. The bodies of all these dead were riddled with bullets. We put 25 corpses from among those that were bound into the French military truck, and the policeman HEDJ BOU ZID climbed into the truck and they went to the cemetery. And I and the others got into a DS (Citroën) belonging to a French civilian from Bordj Thaleb, which took us back to the hospital.

Q. — To which cemetery did they go?

A. — To the cemetery of EL AIN.

Q. — In Bizerte?

A. — Yes.

Q. — Is that the big cemetery?

A. — Yes. We had them reserve a place for these corpses.

Q. — Do you have anything else to declare?

A. — Yes. Once we had arrived at the hospital, we returned to the place with two Arabs to bring away the other dead, and we carried them to the cemetery. I was accompanied by Mr. ABDELAZIZ THABET and two others. We unloaded them at the cemetery without burying them, and we returned to the hospital. I should point out one observation which I omitted to make in the report: among these 60 dead, there were two of them who had their arms and legs cut off.

Q. — Is that all?

A. — Yes.

Q. — Did you take the name of the first soldier found dead?

A. — Yes. It was a civilian who lives in that locality and who knew him who gave us his name.

Q. — When you went to Bordj Thaleb, were these dead bodies dressed, or not?

A. — There were some that were half naked, since their shirts had been taken off.

Q. — Were they mixed: civilians and soldiers?

A. — There were volunteers and civilians, and among others a civilian guardian who worked in that locality.

Q. — The guardian is a civilian, or a military man?

A. — No, a civilian employed in someone's establishment.

Q. — (by Professor ERMACORA) — Were there men and women, or only men?

A. — All men.

Q. — How old were they?

A. — From 22 to 30 years.

Q. — Were the volunteers with the soldiers?

A. — No. — We found them in this locality, they were unarmed.

Q. — Did they have a special uniform?

A. — There were some in boiler suits, and I don't know whether that was a uniform.

Q. — What were they doing?

A. — They were volunteers, but they weren't armed. They came from everywhere and there were some who were killed while they were going around the place before the incident, that is to say, while they were doing nothing but passing by.

- Q.* — When you picked up the first dead, did you bury them?
- A.* — No. We put them into the truck. These 25 corpses were taken by the policeman to the cemetery, and we stayed where we were.
- Q.* — Did you go to the cemetery with the first convoy?
- A.* — No.
- Q.* — Were all these dead killed by bullets from firearms, or from their wounds?
- A.* — These corpses were riddled with bullets.
- Q.* — Were these bullets localized, or all over their bodies?
- A.* — These bullets were all over their bodies.
- Q.* — About how many bullets were there in their bodies?
- A.* — Their whole bodies, from head to feet, and I couldn't specify where.
- Q.* — Can you describe Bordj Thaleb?
- A.* — It's an old quarry, a sort of mine. These corpses were outside the quarry, near the river.
- Q.* — Are there any houses?
- A.* — Yes. A little further on from where the corpses were.
- Q.* — At about what distance?
- A.* — There are houses on both sides, and I couldn't say how far.
- Q.* — Are these well constructed houses, or Arab huts?
- A.* — There are some of both kinds.
- Q.* — Are there any French barracks?
- A.* — Yes, in Djebel, which is some distance.
- Q.* — Do you think that these dead were killed at that spot or were they transported there?
- A.* — No, they were killed at that spot.
- Chairman* (to Mr. GUIGA) — Do you have an official statement by the witness?
- A.* — (by Mr. GUIGA) Yes.
(The official statement is handed to the witness.)
- Q.* — Do you recognize your signature?
- A.* — Yes, that is mine.
- Chairman* (to Mr. GUIGA) — Since the witness speaks only Arabic, was the translation of the official report read to him?
- A.* — (by Mr. GUIGA) — Actually, the official report was drawn up in Arab and afterwards translated into French.
- Chairman* (to the witness) — In the beginning, when you made your first statement, you did not mention the two persons who had had their arms and legs cut off.
- A.* — I forgot to declare that, which is just the reason why I called your attention to this observation.
- Q.* — These persons, were they in the first or the second convoy?
- A.* — In the second convoy.
- Chairman* (to Mr. GUIGA) — Is there any question you would like the Commission to ask the witness?
- Mr. GUIGA* — No.
- Chairman* (to the witness) — Have you anything else to state?
- A.* — No, nothing more.

APPENDIX F

The Case of the Tunisian Government

On 19 July, following the prohibition by the Tunisian Government of flights over its territory, a French attack was launched against Bizerta and its region by forces composed of parachutists and legionnaires brought in by air and sea. A battle ensued following this aggression in which the disproportionate force used by the French enabled their troops to occupy a part of the city of Bizerte. As a result of this hundreds were killed and more than a thousand wounded. The fighting ceased on the evening of 22 July by the putting into effect of the provisional Resolution of the Security Council.

The utilization by the French forces of modern and highly powerful means of destruction (jet planes, napalm bombs, rockets, armoured tanks, artillery) and, especially, the violence of the parachutists and soldiers of the Foreign Legion caused a very high number of victims, particularly among the civilian population.

By their conduct, the French forces committed grave violations of the rights of man and especially of the Geneva Conventions of 12 August 1949. Thus, both at Bizerta and at Menzel-Bourguiba, neither women nor children were spared, and prisoners were summarily executed in cold blood, and mutilations were found on a large number of corpses.

These violations were verified, not only by numerous witnesses who can be brought direct to hearings, but also by the special envoys or the photographers of the international press.

However, in Bizerta, following upon four days of fighting, the conditions under which the interment of the corpses took place—in common ditches without previous identification—hardly made it possible afterwards to achieve any certainty that summary executions were systematically carried out in Bizerta.

Be that as it may, the identification activities deployed by the local authorities made it possible to establish the fact that certain bodies showed signs of summary execution. A commission consisting of the President of the Council of the Medical association, the President of the Bar, magistrates and doctors of various nationalities went on 22 August, to Bizerta, and drew up a report on its investigations concerning certain victims, which corroborated the violations.

I. At Menzel-Bourguiba

From the testimony of Messrs.

Béehir EL GHARBI, Police sergeant,
Mohamed ben Saïd BEN BOUJEMAA, day-labourer,
Rachid BEN HASSINE, pharmaceutical assistant,
Naceur AOUDI, male nurse,
Béehir EL HADJAMI, workman,

it has been established that :

- (1) bodies of Tunisian soldiers and civilians were savagely mutilated : ears cut off, hands, arms and limbs severed, chests gashed, sexual organs almost completely cut off;
- (2) bodies were wholly or partially burnt;

- (3) bodies showed traces of brutalities : burnings of the chest and the palms of the hands, ecchymosis, and abrasions;
- (4) civilians were killed from behind;
- (5) prisoners were summarily executed.

A large number of these bodies were buried in the cemetery of Menzel-Bourguiba.

II. At Bizerta

A. Bordj Taleb — Bir Messiougha — Bir Chouka

On 22 July 1961, at 9 a.m., the French Consul-General in Bizerta telephoned the Governor of Bizerta to advise him that numerous corpses of Tunisians were to be found at La Pêcherie, and asked him to have them brought to Bizerta to be buried. The Governor of Bizerta replied that the ambulances could not go to that locality because of the risk of being machine-gunned by the French soldiers guarding the road to La Pêcherie. In the afternoon of the same day, the Consul-General again telephoned the Governor of Bizerta to inform him that he was placing at his disposal a truck escorted by two French gendarmes to transport the corpses at La Pêcherie to Bizerta. The truck did in fact arrive at the Governor's palace at about 5 p.m., but in view of the lateness of the hour, it was agreed by the French gendarmes and the Commissioner of Police, Chief of the Bizerta Sector, to postpone the operation until the next morning.

On 23 July 1961, at 8 a.m., the two French gendarmes presented themselves with their truck at the Regional Hospital of Bizerta, where El Hédi Ben Salem Bouzid, No. 5506 of the Bizerta Police was waiting for them, together with policeman, Abdelaziz Ben Hachemi Thabti, a hospital orderly, Houcine Ben Mohamed El Allouche, a volunteer from the Red Crescent and four persons instructed to accompany the truck which was to transport the bodies from La Pêcherie to the burial place. The truck then drove towards the place called "Ibn Nefaa", where an officer of the French army identified the exact spot, where the bodies were to be found, as being at Bordj Taleb.

At Bordj Taleb, the male nurses and the policeman were able to verify that dozens of corpses of Tunisian volunteers of the Destour Party, wearing the blue uniform, were laid out on the ground in groups, some on their faces and some on their backs. For the most part, their feet and hands were bound, some behind and some in front, with steel wire, cords, belts, towels, shirts or trousers.

They were all riddled with bullets, and some among them bore fairly long wounds made by cutting weapons on their naked backs. Others had their heads sliced or split from behind so widely as to render the brains visible.

The transport of these corpses was taken care of by the military truck and three other vehicles.

In the afternoon another team of six municipal workers, headed by Mr. Ali Chérif, a Municipal Counsellor, went to Bir Messiougha and to Bir Chouka, where all the corpses discovered were mutilated (37 in the first-named place, and 27 in the second).

At Bir Messiougha, as well as at Bir Chouka, the corpses of volunteers in blue uniform, lying on the ground, with their hands and feet bound, bore fairly long and deep wounds; their bodies were riddled with bullets.

Transport of these corpses was handled by two ambulances of the Red Crescent and a truck of the municipality of Bizerta.

These corpses were all buried in the Bizerta cemetery.

The following witnesses took care of the transport of these corpses :

(1) *For Bordj Taleb:*

Messrs. Hédi ben Salem Bouzid, policeman,
Houcine ben Mohamed ben Brahim Allouche, employee
at the Governors palace of Bizerta,
Abdelaziz ben Hachemi ben Amor Thabati.

(2) *For Bir Messiougha and Bir Chouka:*

Messrs. Ali ben Mohamed Chérif, Municipal Cousellor,
Ali Ben Abdallah Ben Hadj Ahmed Zarrouck,
Salah Ben Ahmed Ben Mohamed Maouara,
Hamadi Ben Larbi Ben Mohamed Seria,
Mahmoud Ben Mahmoud Ben Abdelkader Romdhana,
Driss Ben Mohamed Ben Sadok Maâmer,
Hédi Ben Hassine Ben Hassine Ghouaïel.

Other witnesses, among them Mr. Salah Ben Mustapha Kchouk, personally observed the conditions under which the victims of Bordj Taleb were summarily executed.

B. Sidi Ahmed

Other testimony reveals that, between La Pêcherie and the base of Sidi Ahmed, the parachutists buried together the corpses and the living wounded in a trench. Among these witnesses, we may mention Mr. Salah Ben Achour Ben Mohamed Nasri, as well as several prisoners now being held by the French forces in the camps at Nador and Djebel Kébir.

APPENDIX G

PHOTOGRAPHS



No. 1



No. 2





No. 4





APPENDIX H

Identity papers held by the Tunisian Red Crescent

Names and first names	Region	Nature of the papers
Larbi B. Boujemaa B. Youssef	Aïn Draham	Certificate of good character delivered on 1/2/60
" " " " "	" "	Civil status
" " " " "	" "	Nationality certificate
" " " " "	" "	Neo Destour Membership card 1960
" " " " "	" "	Neo Destour Membership card 1961
" " " " "	" "	Personal letter
Boujemaa Youssef B. Sebti	" "	Susa booklet No. 2496 (Forestry service, delivered 10/1/60,
Salah Akremi	Haffouz (Kairouan)	Birth certif. delivered 21/3/60
Sliman B. Youssef Essebti	Aïn Draham	2 "identity" photos
Hassine Ben Ahmed Lamine Ferchichi	Seliana (Kef)	Certificate of indigence
Brahim B. Mabrouk B. Mohamed	Destourian cell of Hdhila	Attestation
Larbi B. Boujemaa B. Youssef	Destourian Cell of Hdhila (Souk Arbaa)	Attestation
Sliman B. Abdelwahab EL MAI	Bizerte	Credential card (CICAF-TU)
Abdelaziz	/	Card of the campaign in the antituberculosis drive No. 1935
Béchir Toumi Ben Ahmed	Oued El Jabbas (Kairouan)	Notebook
" " " " "	" "	Voting card
" " " " "	" "	Personal letter
" " " " "	" "	Receipt of 0.0100 gift to the Social Committee of Kairouan
Abdallah	/	Card of the campaign in the antituberculosis drive No. 2.215
Ellafi B. Amor Doria	Sidi Amor Bouhajla	Voting card
Abdelhafidh B. Ahmed Ben Salah	"	Voting card
Abdelaziz B. Ali B. Brahim	Kairouan	Neo Destour Membership Card 1961
Boubaker B. Larbi B. Boubaker	El Ala	Neo Destour Membership Card 1961

Names and first names	Region	Nature of the papers
Ali Abdelhafidh	Sidi Amor	Neo Destour Membership Card 1961
Ali	/	Card of the campaign in the antituberculosis drive No. 1259
Salah Ben Ali	/	Individual card (Tunisian Army No. 13,862)
Tafef Laouiti	Kairouan	Voting card
Abdelaziz Ben Idoudi	"	One identity photo
" " "	"	Receipt to the Committee assigned to Construction of schools
Tafef	/	Card of the campaign in the antituberculosis drive No. 0928
Béchir	/	Card of the campaign in the antituberculosis drive No. 0888
Abdelaziz Ben Ali Abdoudi	/	One identity photo
One unidentified notebook		
8 unidentified identity photos		

APPENDIX I

Autopsy Report

In the year one thousand nine hundred and sixty one and the twenty-second day of August at seven p.m., the undersigned doctors certify having undertaken the exhumation and examination of three corpses from the cemetery El Ain in Bizerte, in the presence of Messrs.

ABDENNEBI, Abderrahman, Esq., President of the Council of the Order of Attorneys,

RACHED LASSIDI, Public Prosecutor before the Trial Court of Bizerte, SALAH BOULAKBECHE, General Secretary of the Red Crescent,

MARTIN, of the International Red Cross Committee,

MOHAMED ENNACEUR, Director of the Cabinet of the Secretary of State for Public Health and Social Affairs,

FOUAD MBAZAA, Attaché to the Cabinet of the Secretariat of State for Public Health and Social Affairs,

HEDI CHAIBI, Regional Administrator of Public Health in Bizerte,

MOHAMED MAROUANE, Commissioner of Police, Chief of the Bizerte Sector.

They declare, under oath, that they made the following findings :

1. The first corpse exhumed was found to be in a state of advanced decomposition which seems to indicate that the death occurred about one month ago. Traces of burning were noted on the body of the victim, his upper members were joined in front and bound at the level of the lower third of the two forearms by means of a covered metal wire of the electric wire type. The hyper-flexed position of the two hands shows that the victim struggled to break his bonds. This binding was effected by a triple encirclement with the wire passing between the two members.
2. The second corpse shows no burning, but a binding of the same sort as that found on the preceding corpse is noted at the level of the left forearm some three finger-breadths above the wrist. This more tightly binding fetter had entered into the soft parts to uncover the skeleton. The fact that the skin adhered closely to the fetters might be attributed to the fact that the victim violently struggled to free himself from his bonds.
3. The third corpse presented no special characteristics.

In witness whereof they make the present report for whatever service and value it may have.

Doctor Mahmoud El Materi, President of the Council of the Order of Medical Doctors,

Doctor Aly Fourati, Deputy of the National Assembly,

Doctor Bahri Mohsen, Divisional Medical Inspector,

Doctor Amor Daly, Divisional Medical Inspector,

Doctor Gafsi, Surgeon at the Bizerte Regional Hospital,

Doctor Abdelaziz Benatya, Doctor at the Bizerte Hospital

Doctor Vasile Andrea, Italian Doctor,

Doctor Van Wetter, Belgian doctor,

Doctor Akif Turgut Beche, Turkish Doctor,

Doctor Guillermot Valverde, Spanish Doctor,

Doctor Habib Djemaa, Physiologist in Bizerte,

Doctor Mohsef Karoui, Surgeon in Bizerte.

Examined, for attestation of the signatures of Messrs.
Doctors El Materi, Aly Fourati, Bahri Mohsen, Amor Daly, Gafsi, Abdelaziz Benatya, Vasile Andrea, Van Wetter, Akif Turgut Beche, Guillermot Valverde, Habib Djemaa, Mohsen Karoui.

Bizerte, 22 August 1961
(Seal of) the President of the Municipality

APPENDIX J

Geneva Convention 12th August 1949 (III: Prisoners)

Article 3: In the case of armed conflict not of an international character occurring in the territory of one of the High Contracting Parties, each Party to the conflict shall be bound to apply as, a minimum, the following provisions :

(1) Persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed *hors de combat* by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely, without any adverse distinction founded on race, colour, religion or faith, sex, birth or wealth, or any other similar criteria.
To this end, the following acts are and shall remain prohibited at any time in any place whatsoever with respect to the above-mentioned persons :

- (a) violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture;
- (b) taking of hostages;
- (c) outrages upon personal dignity, in particular, humiliating and degrading treatment;
- (d) the passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court affording all the judicial guarantees which are recognised as indispensable by civilized peoples.

(2) The wounded and sick shall be collected and cared for.

An impartial humanitarian body, such as the International Committee of the Red Cross, may offer its services to the Parties to the conflict.

The Parties to the conflict should further endeavour to bring into force, by means of special agreements, all or part of the other provisions of the present Convention.

The application of the preceding provisions shall not affect the legal status of the Parties to the conflict.

Article 87: Prisoners of war may not be sentenced by the military authorities and courts of the Detaining Power to any penalties except those provided for in respect of members of the armed forces of the said Power who have committed the same acts.

When fixing the penalty, the courts or authorities of the Detaining Power shall take into consideration, to the widest extent possible, the fact that the accused, not being a national of the Detaining Power, is not bound to it by any

duty of allegiance, and that he is in its power as the result of circumstances independent of his own will. The said courts or authorities shall be at liberty to reduce the penalty provided for the violation of which the prisoner of war is accused, and shall therefore be bound to apply the minimum penalty prescribed.

Collective punishment for individual acts, corporal punishments, imprisonment in premises without daylight and, in general, any form of torture or cruelty, are forbidden.

No prisoner of war may be deprived of his rank by the Detaining Power, or prevented from wearing his badges.

Article 101: If the death penalty is pronounced on a prisoner of war, the sentence shall not be executed before the expiration of a period of at least six months from the date when the Protecting Power receives, at an indicated address, the detailed communication provided for in Article 107.

Geneva Convention 12th August 1949 (IV: Civilians)

Article 5: Where in the territory of a Party to the conflict, the latter is satisfied that an individual protected person is definitely suspected of or engaged in activities hostile to the security of the State, such individual person shall not be entitled to claim such rights and privileges under the present Convention as would, if exercised in the favour of such individual person, be prejudicial to the security of such State.

Where in occupied territory an individual protected person is detained as a spy or saboteur, or as a person under definite suspicion of activity hostile to the security of the Occupying Power, such person shall, in those cases where absolute military security so requires, be regarded as having forfeited rights of communication under the present convention.

In each case, such persons shall nevertheless be treated with humanity and, in case of trial, shall not be deprived of the rights of fair and regular trial prescribed by the present Convention. They shall also be granted the full rights and privileges of a protected person under the present Convention at the earliest date consistent with the security of the State or Occupying Power, as the case may be.

Article 27: Protected persons are entitled, in all circumstances, to respect for their persons, their honour, their family rights, their religious convictions and practices, and their manners and customs. They shall at all times be humanely treated, and shall be protected especially against all acts of violence or threats thereof and against insults and public curiosity.

Women shall be especially protected against any attack on their honour, in particular against rape, enforced prostitution, or any form of indecent assault.

Without prejudice to the provisions relating to their state of health, age and sex, all protected persons shall be treated with the same consideration by the Party to the conflict in whose power they are, without any adverse distinction based, in particular, on race, religion or political opinion.

However, the Parties to the conflict may take such measures of control and security in regard to protected persons as may be necessary as a result of the war.

Article 32: The High Contracting Parties specifically agree that each of them is prohibited from taking any measure of such a character as to cause the physical suffering or extermination of protected persons in their hands. This prohibition applies not only to murder, torture, corporal punishments, mutilation and medical or scientific experiments not necessitated by the medical treatment of a protected person, but also to any other measures of brutality whether applied by civilian or military agents.

Article 33: No protected person may be punished for an offence he or she has not personally committed. Collective penalties and likewise all measures of intimidation or of terrorism are prohibited.

Pillage is prohibited.

Reprisals against protected persons and their property are prohibited.

Article 47: Protected persons who are in occupied territory shall not be deprived, in any case or in any manner whatsoever, of the benefits of the present Convention by any change introduced, as the result of the occupation of a territory, into the institutions or government of the said territory, nor by any agreement concluded between the authorities of the occupied territories and the Occupying Power, nor by any annexation by the latter of the whole or part of the occupied territory.

Article 68: Protected persons who commit an offence which is solely intended to harm the Occupying Power, but which does not constitute an attempt on the life or limb of the members of the occupying forces or administration, nor a grave collective danger, nor seriously damage the property of the occupying forces or administration or the installations used by them, shall be liable to internment or simple imprisonment, provided the duration of such internment or imprisonment is proportionate to the offence committed. Furthermore, internment or imprisonment shall, for such offences, be the only measure adopted for depriving protected persons of liberty. The courts provided for under Article 66 of the present Convention may at their discretion convert a sentence of imprisonment to one of internment for the same period.

The penal provisions promulgated by the Occupying Power in accordance with Articles 64 and 65 may impose the death penalty on a protected person only in cases where the person is guilty of espionage, of serious acts of sabotage against the military installations of the Occupying Power or of intentional offences which have caused the death of one or more persons, provided that such offences were punishable by death under the law of the occupied territory in force before the occupation began.

The death penalty may not be pronounced on a protected person unless the attention of the court has been particularly called to the fact that since the accused is not a national of the Occupying Power, he is not bound to it by any duty of allegiance.

In any case, the death penalty may not be pronounced on a protected person who was under eighteen years of age at the time of the offence.

Article 71: No sentence shall be pronounced by the competent courts of the Occupying Power except after a regular trial.

Accused persons who are prosecuted by the Occupying Power shall be promptly informed, in writing, in a language which they understand, of the particulars of the charges preferred against them, and shall be brought to trial as rapidly as possible. The Protecting Power shall be informed of all proceedings instituted by the Occupying Power against protected persons in respect of charges involving the death penalty or imprisonment for two years or more; it shall be enabled, at any time, to obtain information regarding the state

of such proceedings. Furthermore, the Protecting Power shall be entitled, on request, to be furnished with all particulars of these and of any other proceedings instituted by the Occupying Power against protected persons.

The notification to the Protecting Power, as provided for in the second paragraph above, shall be sent immediately, and shall in any case reach the Protecting Power three weeks before the date of the first hearing. Unless, at the opening of the trial, evidence is submitted that the provisions of this Article are fully complied with, the trial shall not proceed. The notification shall include the following particulars :

- (a) description of the accused;
- (b) place of residence or detention;
- (c) specification of the charge or charges (with mention of the penal provisions under which it is brought);
- (d) designation of the court which will hear the case;
- (e) place and date of the first hearing.

Article 75: In no case shall persons condemned to death be deprived of the right of petition for pardon or reprieve.

No death sentence shall be carried out before the expiration of a period of at least six months from the date of receipt by the Protecting Power of the notification of the final judgment confirming such death sentence, or of an denying pardon or reprieve.

The six months period of suspension of the death sentence herein prescribed may be reduced in individual cases in circumstances of grave emergency involving an organized threat to the security of the Occupying Power or its forces, provided always that the Protecting Power is notified of such reduction and is given reasonable time and opportunity to make representations to the competent occupying authorities in respect of such death sentences.