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Home > Detainees

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Detainees <sup>[1]</sup> are persons who have been subject to custodial deprivation of their liberty. In the case of persons who have been detained for reasons related to an international armed conflict <sup>[2]</sup>, IHL contains rules governing the admissible reasons for depriving them of their liberty and the procedures allowing them to challenge the legality of their detention <sup>[3]</sup>. In both international and non-international armed conflicts <sup>[4]</sup>, IHL rules cover treatment <sup>[5]</sup> in detention, and, if a detainee is tried, IHL prescribes the judicial guarantees <sup>[6]</sup> they must benefit from. Under IHL of international armed conflicts, the category of detainees can include detained protected civilians (those who are awaiting trial, have been sentenced or who are administratively held as civil internees <sup>[7]</sup>; GC IV) or prisoners of war <sup>[8]</sup> (GC III). In IHL of non-international armed conflicts, no such categories exist and IHL only regulates the treatment and judicial guarantees benefitting all persons deprived of their liberty, but does not explicitly deal with why such persons may be interned, nor does it establish procedures allowing them to challenge the legality of their internment <sup>[9]</sup>.

See Civil internees <sup>[7]</sup>; Indicted or convicted persons <sup>[10]</sup>; Detention <sup>[3]</sup>; Internment <sup>[9]</sup>;  
Prisoners of war <sup>[8]</sup>;

## OUTLINE

Chapter 15, a. visits to detained persons – interviews without witnesses <sup>[11]</sup>

Chapter 15, a. visits (with interviews without witnesses) to detainees held in connection with the situation

[12]

## CASES

United Kingdom, The Case of Serdar Mohammed (High Court Judgment) [13]

ECHR, Al-Jedda v. UK [14]

ECHR, Hassan v. UK [15]

Syria, Code of Conduct of the Free Syrian Army [16]

Malaysia/Philippines, Conflict over the Sultanate of Sulu [17]

US/Afghanistan, Transfer of Control over Bagram Prison [18]

United States, Use of Armed Drones for Extraterritorial Targeted Killings [19]

Israel/Palestine, Operation Protective Edge (Gaza, 13 June - 26 August 2014) [20]

Libya, Report of the Office of the UN High Commissioner for Human Rights (2014/15) [21]

United Kingdom, The Case of Serdar Mohammed (Court of Appeal and Supreme Court Judgments) [22]

USA, Al-Shimari v. CACI Premier Technology, Inc. [23]

USA, Guantánamo, End of "Active Hostilities" in Afghanistan <sup>[24]</sup>

USA, Jawad v. Gates <sup>[25]</sup>

Central African Republic, Report of the UN Independent Expert, July 2016 <sup>[26]</sup>

Eastern Ukraine, OHCHR Report on the Situation: November 2016 - February 2017 <sup>[27]</sup>

Cameroon, Dead and Missing Persons <sup>[28]</sup>

Eastern Ukraine: Disputed POW Status <sup>[29]</sup>

## LEGAL SOURCES

### In IAC:

GCI, 49/4 <sup>[30]</sup> (see ICRC updated Commentary <sup>[31]</sup>)

GCII, 50/4 <sup>[32]</sup> (see ICRC updated Commentary <sup>[33]</sup>)

GCIII, 129/4 <sup>[34]</sup>

GCIV, 146/4 <sup>[35]</sup>

PI, 11 <sup>[36]</sup>

PI, 45 <sup>[37]</sup>

PI, 75 <sup>[38]</sup>

PI, 76 <sup>[39]</sup>

PI, 77/3-5 <sup>[40]</sup>

### In NIAC:

GC 3 <sup>[41]</sup>

PII, 4 <sup>[42]</sup>

PII, 5 <sup>[43]</sup>

PII, 6 <sup>[44]</sup>

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**Source URL:** <https://casebook.icrc.org/glossary/detainees>

#### **Links**

- [1] <https://casebook.icrc.org/glossary/detainees>
- [2] <https://casebook.icrc.org/glossary/international-armed-conflict>
- [3] <https://casebook.icrc.org/glossary/detention>
- [4] <https://casebook.icrc.org/glossary/non-international-armed-conflict>
- [5] <https://casebook.icrc.org/glossary/treatment>
- [6] <https://casebook.icrc.org/glossary/judicial-guarantees>
- [7] <https://casebook.icrc.org/glossary/civilian-internees>
- [8] <https://casebook.icrc.org/glossary/prisoners-war>
- [9] <https://casebook.icrc.org/glossary/internment>
- [10] <https://casebook.icrc.org/glossary/indicted-or-convicted-persons>
- [11] [https://casebook.icrc.org/law/icrc#ii\\_1\\_a](https://casebook.icrc.org/law/icrc#ii_1_a)
- [12] [https://casebook.icrc.org/law/icrc#ii\\_2\\_a](https://casebook.icrc.org/law/icrc#ii_2_a)
- [13] <https://casebook.icrc.org/case-study/united-kingdom-case-serdar-mohammed-high-court-judgment>

- [14] <https://casebook.icrc.org/case-study/echr-al-jedda-v-uk>
- [15] <https://casebook.icrc.org/case-study/echr-hassan-v-uk>
- [16] <https://casebook.icrc.org/case-study/syria-code-conduct-free-syrian-army>
- [17] <https://casebook.icrc.org/case-study/malaysiaphilippines-conflict-over-sultanate-sulu>
- [18] <https://casebook.icrc.org/case-study/usafghanistan-transfer-control-over-bagram-prison>
- [19] <https://casebook.icrc.org/case-study/united-states-use-armed-drones-extraterritorial-targeted-killings>
- [20] <https://casebook.icrc.org/case-study/israelpalestine-operation-protective-edge-gaza-13-june-26-august-2014>
- [21] <https://casebook.icrc.org/case-study/libya-report-office-un-high-commissioner-human-rights-201415>
- [22] <https://casebook.icrc.org/case-study/united-kingdom-case-serdar-mohammed-court-appeal-and-supreme-court-judgments>
- [23] <https://casebook.icrc.org/case-study/usa-al-shimari-v-caci-premier-technology-inc>
- [24] <https://casebook.icrc.org/case-study/usa-guantanamo-end-active-hostilities-afghanistan>
- [25] <https://casebook.icrc.org/case-study/usa-jawad-v-gates>
- [26] <https://casebook.icrc.org/case-study/central-african-republic-report-un-independent-expert-july-2016>
- [27] <https://casebook.icrc.org/case-study/eastern-ukraine-ohchr-report-situation-november-2016-february-2017>
- [28] <https://casebook.icrc.org/case-study/cameroon-dead-and-missing-persons>
- [29] <https://casebook.icrc.org/case-study/eastern-ukraine-disputed-pow-status>
- [30] <https://www.icrc.org/applic/ihl/ihl.nsf/Article.xsp?action=openDocument&documentId=3F6C2B8B20272F58C12563CD0>
- [31] <https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/Comment.xsp?action=openDocument&documentId=3ED0B7D33BF425F3C1257F7D0>
- [32] <https://www.icrc.org/applic/ihl/ihl.nsf/Article.xsp?action=openDocument&documentId=58854E245CB34B82C12563CD0>
- [33] <https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/Comment.xsp?action=openDocument&documentId=939B22235997C68FC125811500>
- [34] <https://www.icrc.org/applic/ihl/ihl.nsf/Article.xsp?action=openDocument&documentId=C083F579BD003884C12563CD0>
- [35] <https://www.icrc.org/applic/ihl/ihl.nsf/Article.xsp?action=openDocument&documentId=6F96EE4C7D1E72CAC12563CD0>
- [36] <https://www.icrc.org/applic/ihl/ihl.nsf/Article.xsp?action=openDocument&documentId=28D300B20C31500CC12563CD0>
- [37] <https://www.icrc.org/applic/ihl/ihl.nsf/Article.xsp?action=openDocument&documentId=DD198B7E9C5EE792C12563CD0>
- [38] <https://www.icrc.org/applic/ihl/ihl.nsf/Article.xsp?action=openDocument&documentId=086F4BB140C53655C12563CD0>
- [39] <https://www.icrc.org/applic/ihl/ihl.nsf/Article.xsp?action=openDocument&documentId=086F4BB140C53655C12563CD0>

<https://www.icrc.org/applic/ihl/ihl.nsf/Article.xsp?action=openDocument&documentId=5FB5CC7AD1C3AAF7C12563CD>

[40] <https://www.icrc.org/applic/ihl/ihl.nsf/ART/470-750099?OpenDocument>

[41]

<https://www.icrc.org/applic/ihl/ihl.nsf/Article.xsp?action=openDocument&documentId=BAA341028EBFF1E8C12563CD>

[42]

<https://www.icrc.org/applic/ihl/ihl.nsf/Article.xsp?action=openDocument&documentId=F9CBD575D47CA6C8C12563CD>

[43] <https://www.icrc.org/applic/ihl/ihl.nsf/ART/475-760009?OpenDocument>

[44] <https://www.icrc.org/applic/ihl/ihl.nsf/ART/475-760010?OpenDocument>