



Published on *How does law protect in war? - Online casebook* (<https://casebook.icrc.org>)

Home > Torture

As defined by the United Nations, any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as:

- a. obtaining from him or a third person information or a confession;
- b. punishing him for an act he or a third person has committed or is suspected of having committed;
- c. intimidating or coercing him or a third person; or
- d. for any reason based on discrimination of any kind,

when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.

It does not include pain or suffering arising only from, inherent in, or incidental to lawful sanctions.

Torture constitutes an aggravated and deliberate form of cruel, inhuman or degrading treatment or punishment. No State may permit or tolerate torture or other cruel, inhuman or degrading punishment, even in exceptional circumstances such as a state of war or the threat of war, internal political instability or any other public emergency. Each State must take effective measures to prevent torture and other cruel, inhuman or degrading treatment from being practised with its jurisdiction, and to punish persons responsible for such acts. The training of law enforcement ^[1] personnel and other public officials who may be responsible for persons deprived of their liberty must ensure that they are informed of the prohibition against torture and other cruel, inhuman or degrading treatment or punishment.

Torture committed in time of war is considered to be a war crime ^[2].

See also Humane Treatment ^[3];

OUTLINE

Chapter 14, II.1. b) ee) definition of torture ^[4]

LEGAL SOURCE

general prohibition

PI, 75/2(a)(ii) ^[5]

CIHL, 90 ^[6]

in IAC

GCI, 12/2 ^[7] (see ICRC updated Commentary ^[8])

GCII, 12/2 ^[9] (see ICRC updated Commentary ^[10])

GCIII, 17/4 ^[11]

GCIV, 32 ^[12]

grave breach

GCI, 50 ^[13] (see ICRC updated Commentary ^[14])

GCII, 51 ^[15] (see ICRC updated Commentary ^[16])

GCIII, 130 ^[17]

GCIV, 147 ^[18]

in NIAC

common 3/1 ^[19] (see ICRC updated Commentary ^[20])

PII, 4/2a ^[21]

CIHL, 90 ^[6]

DOCUMENT

United Nations Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment ^[22]

CASES

Israel, Methods of Interrogation Used Against Palestinian Detainees ^[23]

Mali, Conduct of Hostilities ^[24]

Switzerland, The Immunity of General Nezzar ^[25]

Central African Republic, Coup d'Etat ^[26]

United States of America, The Death of Osama bin Laden ^[27]

Libya, Report of the Office of the UN High Commissioner for Human Rights (2014/15) ^[28]

United States, Jurisprudence Related to the Bombing of the U.S.S. Cole ^[29]

USA, Al-Shimari v. CACI Premier Technology, Inc. ^[30]

USA, Guantánamo, End of "Active Hostilities" in Afghanistan ^[31]

USA, Jawad v. Gates ^[32]

ECRC, Detention Sites in Cambodia ^[33]

BIBLIOGRAPHIC RESOURCES

Suggested readings:

BELLAMY Alex J., "No Pain, No Gain? Torture and Ethics in the War on Terror", in *International Affairs*, Vol. 82, No. 1, January 2006, pp. 121-146.

DROEGE Cordula, "“In Truth the Leitmotiv”: The Prohibition of Torture and

Other Forms of Ill-Treatment in International Humanitarian Law”, in *IRRC*, Vol. 89, No. 867, September 2007, pp. 515-541

ENEMARK Christian, “Triage, Treatment and Torture: Ethical Challenges for US Military Medicine in Iraq”, in *Journal of Military Ethics*, Vol. 7, Issue 3, 2008, pp. 186-201.

SINNER Philippe de & REYES Hernan, “Activités du CICR en matière de visites aux personnes privées de liberté : une contribution à la lutte contre la torture”, in CASSESE Antonio (ed.), *The International Fight against Torture*, Baden-Baden, Nomos, 1991, pp. 153-171

ZAWATI Hilmi M., “Impunity or Immunity: Wartime Male Rape and Sexual Torture as a Crime against Humanity”, in *Torture: Journal on Rehabilitation of Torture Victims and Prevention of Torture*, Vol. 17, No. 1, 2007, pp. 27-47.

“The International Committee of the Red Cross and Torture”, in *IRRC*, No. 189, December 1976, pp. 610-616.

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

Links

[1] <https://casebook.icrc.org/glossary/law-enforcement>

[2] <https://casebook.icrc.org/glossary/war-crimes>

[3] <https://casebook.icrc.org/glossary/humane-treatment>

[4] https://casebook.icrc.org/law/ihl-and-human-rights#II_1_b_ee

[5]

<https://www.icrc.org/applic/ihl/ihl.nsf/Article.xsp?action=openDocument&documentId=086F4BB140C53655C12563CD0>

[6] https://www.icrc.org/customary-ihl/eng/docs/v1_rul_rule90

[7]

<https://www.icrc.org/applic/ihl/ihl.nsf/Article.xsp?action=openDocument&documentId=B97B83DC12AC4998C12563CD>

[8] [https://ihl-](https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/Comment.xsp?action=openDocument&documentId=CECD58D1E2A2AF30C1257F15)

[databases.icrc.org/applic/ihl/ihl.nsf/Comment.xsp?action=openDocument&documentId=CECD58D1E2A2AF30C1257F15](https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/Comment.xsp?action=openDocument&documentId=CECD58D1E2A2AF30C1257F15)

[9]

<https://www.icrc.org/applic/ihl/ihl.nsf/Article.xsp?action=openDocument&documentId=A30C39F7F85D71CDC12563CD>

[10] [https://ihl-](https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/Comment.xsp?action=openDocument&documentId=8BE9FEA9E6F5A570C12581150)

[databases.icrc.org/applic/ihl/ihl.nsf/Comment.xsp?action=openDocument&documentId=8BE9FEA9E6F5A570C12581150](https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/Comment.xsp?action=openDocument&documentId=8BE9FEA9E6F5A570C12581150)

[11]

<https://www.icrc.org/applic/ihl/ihl.nsf/Article.xsp?action=openDocument&documentId=2D8538058860C1FCC12563CD0>

[12]

<https://www.icrc.org/applic/ihl/ihl.nsf/Article.xsp?action=openDocument&documentId=0146C998773B1496C12563CD00>

[13]

<https://www.icrc.org/applic/ihl/ihl.nsf/Article.xsp?action=openDocument&documentId=8DE472A17F7E30AFC12563CD0>

[14] [https://ihl-](https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/Comment.xsp?action=openDocument&documentId=21B052420B219A72C1257F7D00)

[databases.icrc.org/applic/ihl/ihl.nsf/Comment.xsp?action=openDocument&documentId=21B052420B219A72C1257F7D00](https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/Comment.xsp?action=openDocument&documentId=21B052420B219A72C1257F7D00)

[15]

<https://www.icrc.org/applic/ihl/ihl.nsf/Article.xsp?action=openDocument&documentId=14F60F779A9C29F2C12563CD00>

[16] [https://ihl-](https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/Comment.xsp?action=openDocument&documentId=51B3435E776E06CEC125811500)

[databases.icrc.org/applic/ihl/ihl.nsf/Comment.xsp?action=openDocument&documentId=51B3435E776E06CEC125811500](https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/Comment.xsp?action=openDocument&documentId=51B3435E776E06CEC125811500)

[17]

<https://www.icrc.org/applic/ihl/ihl.nsf/Article.xsp?action=openDocument&documentId=DD77A07DBDF8B9A2C12563CD0>

[18]

<https://www.icrc.org/applic/ihl/ihl.nsf/Article.xsp?action=openDocument&documentId=F8D322BF3C0216B2C12563CD00>

[19]

<https://www.icrc.org/applic/ihl/ihl.nsf/Article.xsp?action=openDocument&documentId=BAA341028EBFF1E8C12563CD0>

[20] [https://ihl-](https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/Comment.xsp?action=openDocument&documentId=59F6CDFA490736C1C1257F7D00)

[databases.icrc.org/applic/ihl/ihl.nsf/Comment.xsp?action=openDocument&documentId=59F6CDFA490736C1C1257F7D00](https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/Comment.xsp?action=openDocument&documentId=59F6CDFA490736C1C1257F7D00)

[21]

<https://www.icrc.org/applic/ihl/ihl.nsf/Article.xsp?action=openDocument&documentId=F9CBD575D47CA6C8C12563CD0>

[22] <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CAT.aspx>

[23] <https://casebook.icrc.org/case-study/israel-methods-interrogation-used-against-palestinian-detainees>

[24] <https://www.icrc.org/casebook/doc/case-study/mali-conduct-of-hostilities.htm>

[25] <https://casebook.icrc.org/case-study/switzerland-immunity-general-nezzar>

[26] <https://casebook.icrc.org/node/20941>

[27] <https://casebook.icrc.org/case-study/united-states-america-death-osama-bin-laden>

[28] <https://casebook.icrc.org/case-study/libya-report-office-un-high-commissioner-human-rights-201415>

[29] <https://casebook.icrc.org/case-study/united-states-jurisprudence-related-bombing-uss-cole>

[30] <https://casebook.icrc.org/case-study/usa-al-shimari-v-caci-premier-technology-inc>

[31] <https://casebook.icrc.org/case-study/usa-guantanamo-end-active-hostilities-afghanistan>

[32] <https://casebook.icrc.org/case-study/usa-jawad-v-gates>

[33] <https://casebook.icrc.org/case-study/eccc-detention-sites-cambodia>