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Not all violations <sup>[1]</sup> of the laws of war are sanctioned in the same manner. The Geneva Conventions and Additional Protocol I identify a limited set of violations – the grave breaches – which are particularly serious violations that give rise to specific obligations of repression <sup>[2]</sup> for States. Grave breaches must be prosecuted by High Contracting Parties on the basis of the principle of universal jurisdiction <sup>[3]</sup>. Together with other serious violations of IHL, grave breaches constitute war crimes <sup>[4]</sup>.

See War Crime <sup>[5]</sup>, Individual Criminal Responsibility <sup>[6]</sup>; Universal Jurisdiction <sup>[3]</sup>; Breach <sup>[7]</sup>, Violations <sup>[1]</sup>; Genocide <sup>[8]</sup>; Crimes Against Humanity <sup>[9]</sup>; International Criminal Court <sup>[10]</sup>; ICTY <sup>[11]</sup>; ICTR <sup>[12]</sup>; International criminal law <sup>[13]</sup>; Individual criminal responsibility <sup>[6]</sup>;

## OUTLINE

Chapter 13, X. 1. Definition of crimes (a) the concept of grave breaches of IHL and the concept of war crimes <sup>[14]</sup>

Chapter 13, X. 1. Definition of crimes (b) the extension of the concept of grave breaches to NIAC? <sup>[15]</sup>

## LEGAL SOURCE

## definition and lists of offences

GCI, 50 <sup>[16]</sup> (see ICRC updated Commentary <sup>[17]</sup>)

GCII, 51 <sup>[18]</sup> (see ICRC updated Commentary <sup>[19]</sup>)

GCIII, 130 <sup>[20]</sup>

GCIV, 147 <sup>[21]</sup>

PI, 11/4 <sup>[22]</sup>

PI, 85 <sup>[23]</sup>

## universal jurisdiction

GCI, 49 <sup>[24]</sup> (see ICRC updated Commentary <sup>[25]</sup>)

GCII, 50 <sup>[26]</sup> (see ICRC updated Commentary <sup>[27]</sup>)

GCIII, 129 <sup>[28]</sup>

GCIV, 146 <sup>[29]</sup>

PI, 85/1 <sup>[23]</sup>

## CASES

The International Criminal Court (A. Art. 8) <sup>[30]</sup>

Germany, International Criminal Code <sup>[31]</sup> (Paras. 8-12 <sup>[32]</sup>)

Canada, Crimes Against Humanity and War Crimes Act (Section 4) <sup>[33]</sup>

Belgium, Law on Universal Jurisdiction (A. Art. 136(c)) <sup>[34]</sup>

Ghana, National Legislation Concerning the Emblem <sup>[35]</sup>

US, War Crimes Act <sup>[36]</sup>

Hungary, War Crimes Resolution (V. 4 (b)) <sup>[37]</sup>

US Military Tribunal at Nuremberg, United States v. Alfried Krupp et al. <sup>[38]</sup>

Chile, Prosecution of Osvaldo Romo Mena <sup>[39]</sup>

Netherlands, In re Pilz <sup>[40]</sup>

Israel, Human Rights Committee's Report on Beit Hanoun <sup>[41]</sup> (Paras. 49 <sup>[42]</sup>, 68 <sup>[43]</sup> and 75 <sup>[44]</sup>)

Case Study, Armed Conflicts in the former Yugoslavia <sup>[45]</sup> (17 <sup>[46]</sup>, 27 <sup>[47]</sup> and 32 <sup>[48]</sup>)

UN, Statute of the ICTY (B. and C. Arts 2 and 3) <sup>[49]</sup>

ICTY, The Prosecutor v. Tadic (A. paras 79-84) <sup>[50]</sup>

ICTY, The Prosecutor v. Rajic (para 8) <sup>[51]</sup>

ICTY, The Prosecutor v. Blaskic (A. paras 151-158) <sup>[52]</sup>

Colombia, Constitutionality of IHL Implementing Legislation <sup>[53]</sup>

United States, Military Commissions <sup>[54]</sup>

France, Dupaquier et al v. Munyeshyaka <sup>[55]</sup>

ICJ, DRC v. Belgium <sup>[56]</sup>

Afghanistan, Separate Hospital Treatment for Men and Women (B. para 12) <sup>[57]</sup>

Spain, Universal Jurisdiction over Grave Breaches of the Geneva Conventions <sup>[58]</sup>

Central African Republic, Coup d'Etat <sup>[59]</sup>

32nd International Conference of the Red Cross and Red Crescent, Sexual and gender-based violence: joint action on prevention and response <sup>[60]</sup>

## BIBLIOGRAPHIC RESOURCES

### Suggested reading:

FLECK Dieter, "Shortcomings of the Grave Breaches Regime", in *Journal of International Criminal Justice*

, Vol. 7, No. 4, September 2009, pp. 833-854.

ÖBERG Marko Divac, “The Absorption of Grave Breaches into War Crimes Law”, in *IRRC*, Vol. 91, No. 873, March 2009, pp. 163-183.

ROBERTS Ken, “The Contribution of the ICTY to the Grave Breaches Regime”, in *Journal of International Criminal Justice*, Vol. 7, No. 4, September 2009, pp. 743-762.

STEWART James G. (ed.), “The Grave Breaches Regime in the Geneva Conventions: a Reassessment Sixty Years On”, in *Journal of International Criminal Justice*, Vol. 7, No. 4, September 2009, pp. 653-877.

#### **Further reading:**

BOELART-SUOMINEN Sonja, “Grave Breaches, Universal Jurisdiction and Internal Armed Conflict: Is Customary Law Moving Towards a Uniform Enforcement Mechanism for all Armed Conflicts?”, in *Journal of Conflict and Security Law*, Vol. 5/1, 2000, pp. 63-103.

FERDINANDUSSE Ward, “The Prosecution of Grave Breaches in National Courts”, in *Journal of International Criminal Justice*, Vol. 7, No. 4, September 2009, pp. 723-741.

HENCKAERTS Jean-Marie, “The Grave Breaches Regime as Customary International Law”, in *Journal of International Criminal Justice*, Vol. 7, No. 4, September 2009, pp. 683-702.

KRESS Claus, “Reflections on the *Judicare* Limb of the Grave Breaches Regime”, in *Journal of International Criminal Justice*, Vol. 7, No. 4, September

2009, pp. 789-809.

MOIR Lindsay, "Grave Breaches and Internal Armed Conflicts", in *Journal of International Criminal Justice*, Vol. 7, No. 4, September 2009, pp. 763-787.

O'KEEFE Roger, "The Grave Breaches Regime and Universal Jurisdiction", in *Journal of International Criminal Justice*, Vol. 7, No. 4, September 2009, pp. 811-832.

ROBERTS Ken, "The Contribution of the ICTY to the Grave Breaches Regime", in *Journal of International Criminal Justice*, Vol. 7, No. 4, September 2009, pp. 743-762.

SANDOZ Yves, "The History of the Grave Breaches Regime", in *Journal of International Criminal Justice*, Vol. 7, No. 4, September 2009, pp. 657, 682.

STEWART James G., "The Future of the Grave Breaches Regime: Segregate, Assimilate or Abandon?", in *Journal of International Criminal Justice*, Vol. 7, No. 4, September 2009, pp. 855-877.

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- [33] [https://casebook.icrc.org/case-study/canada-crimes-against-humanity-and-war-crimes-act#section\\_4](https://casebook.icrc.org/case-study/canada-crimes-against-humanity-and-war-crimes-act#section_4)

- [34] [https://casebook.icrc.org/case-study/belgium-law-universal-jurisdiction#part\\_a\\_art\\_136\\_c](https://casebook.icrc.org/case-study/belgium-law-universal-jurisdiction#part_a_art_136_c)
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- [43] [https://casebook.icrc.org/case-study/israel-human-rights-committees-report-beit-hanoun#para\\_68](https://casebook.icrc.org/case-study/israel-human-rights-committees-report-beit-hanoun#para_68)
- [44] [https://casebook.icrc.org/case-study/israel-human-rights-committees-report-beit-hanoun#para\\_75](https://casebook.icrc.org/case-study/israel-human-rights-committees-report-beit-hanoun#para_75)
- [45] <https://casebook.icrc.org/case-study/case-study-armed-conflicts-former-yugoslavia>
- [46] [https://casebook.icrc.org/case-study/case-study-armed-conflicts-former-yugoslavia#art\\_17](https://casebook.icrc.org/case-study/case-study-armed-conflicts-former-yugoslavia#art_17)
- [47] [https://casebook.icrc.org/case-study/case-study-armed-conflicts-former-yugoslavia#art\\_27](https://casebook.icrc.org/case-study/case-study-armed-conflicts-former-yugoslavia#art_27)
- [48] [https://casebook.icrc.org/case-study/case-study-armed-conflicts-former-yugoslavia#art\\_32](https://casebook.icrc.org/case-study/case-study-armed-conflicts-former-yugoslavia#art_32)
- [49] <https://casebook.icrc.org/case-study/un-statute-icty#partc>
- [50] [https://casebook.icrc.org/case-study/icty-prosecutor-v-tadic#para\\_79](https://casebook.icrc.org/case-study/icty-prosecutor-v-tadic#para_79)
- [51] [https://casebook.icrc.org/case-study/icty-prosecutor-v-rajic#para\\_8](https://casebook.icrc.org/case-study/icty-prosecutor-v-rajic#para_8)
- [52] [https://casebook.icrc.org/case-study/icty-prosecutor-v-blaskic#part\\_a\\_para\\_151](https://casebook.icrc.org/case-study/icty-prosecutor-v-blaskic#part_a_para_151)
- [53] <https://casebook.icrc.org/case-study/colombia-constitutionality-ihl-implementing-legislation>
- [54] <https://casebook.icrc.org/case-study/united-states-military-commissions>
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- [57] [https://casebook.icrc.org/case-study/afghanistan-separate-hospital-treatment-men-and-women#part\\_b\\_para\\_12](https://casebook.icrc.org/case-study/afghanistan-separate-hospital-treatment-men-and-women#part_b_para_12)
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- [59] <https://casebook.icrc.org/case-study/central-african-republic-coup-detat-0>
- [60] <https://casebook.icrc.org/case-study/32nd-international-conference-red-cross-and-red-crescent-sexual-and-gender-based-violence>