



# The Cleveland Principles of International Law on the Detention and Treatment of Persons in Connection with “The Global War on Terror”

## Introduction

In the context of revelations about the mistreatment of detainees at U.S. detention centers in Guantanamo Bay, Iraq, and Afghanistan; the practice of “irregular rendition” as a means of outsourcing torture; the existence of US-created “black sites” where “ghost detainees” are interrogated abroad; and the content of the leaked “White House Torture memos” – the Cleveland Principles were adopted by the undersigned experts who took part in the “Torture and the War on Terror” Conference at Case Western Reserve University School of Law in Cleveland, Ohio, on October 7, 2005. The Principles have been endorsed by the numerous other experts whose names are also listed below. The undersigned include current and former high-ranking government, military, and international organization officials, prominent academics, and leading practitioners in the field – representing all ends of the political spectrum. The Principles are intended as a clear restatement, written in plain English, of the fundamental international legal rules that apply to the treatment of persons in connection with the so-called “Global War on Terror.” The goal was to produce a text that would be easy for the American public, members of the military, and members of Congress to understand – a text that would unambiguously spell out that in the context of the Global War on Terror, there is no law-free zone, torture can never be justified; outsourcing torture is unlawful; and that government personnel may be criminally liable for involvement in acts of torture.

## The Cleveland Principles:

**Principle 1:** With respect to the “Global War on Terror,” there is no law-free zone.

- International Law (which includes International Humanitarian Law, International Human Rights Law, and International Criminal Law) applies to all contexts and persons in the “Global War on Terror.”
- The “Global War on Terror” is not in its entirety an armed conflict. When, and for so long as, the “Global War on Terror” does manifest itself in armed conflict, the rights of persons detained and the obligations of detaining authorities, are governed by International Humanitarian Law, including the Geneva Conventions of 1949 and the Additional Protocols to the Geneva Conventions.
- International Human Rights Law, including the Convention Against Torture and the Covenant on Civil and Political Rights, also applies to situations of armed conflict, to the extent that its provisions are not inconsistent with applicable international humanitarian law.
- Whenever persons are detained outside the factual framework of armed conflict, international humanitarian law is not applicable and international human rights law, including the Convention Against Torture and the Covenant on Civil and Political Rights, applies instead.

**Principle 2:** Whenever there is any doubt about whether an individual apprehended in the Global War on Terror is entitled to Prisoner of War status, the decision must be made on a case-by-case basis by a competent tribunal.

- Persons who do not qualify for POW status under the Third Geneva Convention are still entitled to humane treatment and the other applicable guarantees of the Fourth Geneva Convention.
- In addition, such persons must not be subject to acts of acts of torture or to cruel, inhuman or degrading treatment, in accordance with the Torture Convention.

**Principle 3:** Nothing in the “Global War on Terror” can justify violating the prohibition on committing acts of torture or cruel, inhuman or degrading treatment.

- Interrogation in the context of the “Global War on Terror,” whether conducted by military personnel or intelligence agents, and whether conducted inside or outside of the State’s territory, must never cross the boundaries of humane treatment.

**Principle 4:** Use of so-called “irregular rendition” as a means of outsourcing torture to third countries is unlawful.

- No person acting as an agent of a government may participate in the transfer of any person to any country for interrogation where there are substantial grounds for believing that the person would be in danger of being subject to torture or to cruel, inhuman or degrading treatment.
- Diplomatic assurances from the receiving State that the person will not be subjected to torture or to cruel, inhuman or degrading treatment are not a sufficient basis upon which it may be determined that such treatment or punishment will not be imposed, where the receiving State has demonstrated a history of engaging in such treatment.

**Principle 5:** Governments and Government personnel are obligated to strictly adhere to the international law applicable to the “Global War on Terror” as set forth in the above principles.

- States are responsible under international law for violations of these principles committed by the Government’s personnel or agents, or by private parties exercising traditional government functions with the Government’s acquiescence, whether the act occurs in the territory of the State or outside the territory of the State.
- Persons who breach or order violations of these principles, or who aid and abet the breach of these principles, or who fail to punish subordinates who have committed breaches of these principles, may face individual criminal liability at home and/or in foreign or international courts.



**The Cleveland Principles were drafted and adopted by the following experts who participated in the “Torture and the War on Terrorism” Conference at Case Western Reserve University School of Law on October 7, 2005:**

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