



Amman-Al Quds Model United Nations

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## ICJ TOPIC 1

### **Iraq V. United States of America - Alleged Violations of the Prohibition of Torture and Other Cruel Inhuman or Degrading Treatment.**

#### **Introduction**

It's not about principles of law. It's about individuals whose words are silenced, wounded, and left with no remedy.

Iraq has issued a complaint to the International Court of Justice (ICJ), alleging that the use of torture and cruel treatment by the United States in the invasion of Iraq violates international law.

Rule of law and human rights are at issue here. Iraq accuses American soldiers of having tortured prisoners they took into custody during the conflict, which is against international norms. The norms are not new. They are articles in international treaties that attempt to protect

individuals from harm even in the heat of war. The United States denies any wrongdoing. It argues that what it did was legal and was necessary in an attempt to rescue lives and fight threats.

That is for the court to decide. The ICJ must consider whether such claims fall within its jurisdiction. If they are, did the United States violate the law? The court must balance national security against the dignity of humanity. It must respect what would be reasonable for the offended parties, even years after the incident.

This agenda is more urgent now than ever before. Torture remains a reality worldwide. Some call it security. Others call it injustice. This case presents an opportunity for us to ask: Who speaks for the excluded? What does one do when the powerful have been accused of injuring the weak?

It forbids the use of torture and cruel, inhuman, or degrading treatment. The states are treaty-bound to prevent them and punish the transgressors.

All but the worst of the abuses happened in prisons such as Abu Ghraib. Human rights groups and journalists reported beatings and psychological abuse. Some of the victims were never put on trial. Some were never even identified. The case poses the question: Can justice be delayed and still be considered just?

It is closely linked to the conference theme of the year: empowering the excluded. The excluded, in this case, are prisoners—imprisoned, deprived of rights, left to their own devices. It is the ICJ's purpose to determine whether an international norm has been violated and, in that event, to impose the necessary sanctions.

In conclusion, the case of Iraq v. United States raises serious concerns about the use of torture and the responsibilities of states under international law. It highlights the need to protect human rights, even during armed conflict, and to ensure that international laws are adhered to. The ICJ plays a crucial role in assessing these claims fairly and impartially. This agenda is important not only for Iraq and the United States but also for the global commitment to justice, accountability, and the protection of those most at risk.

Definitions and Key Terms:

## 1. Torture

**Definition:** The deliberate infliction of severe physical or psychological pain by state or non-state actors, often for punishment, intimidation, or information extraction.

## 2. Detainee

**Definition:** A person held in custody, especially during conflict, often without formal charges or trial.

### 3. Geneva Conventions

**Definition:** International treaties that establish standards for humanitarian treatment during war, including the protection of prisoners.

### 4. Jurisdiction

**Definition:** The authority of a court to hear and rule on a case.

### 5. Accountability

**Definition:** The requirement for individuals, governments, or organizations to be held responsible for their actions, particularly for legal or moral breaches.

### 6. Private Contractors

**Definition:** Civilian employees or companies hired by the military to perform support or operational roles, such as interrogation or security.

### 7. Impunity

**Definition:** The failure to bring perpetrators to justice, allowing them to avoid punishment for crimes or abuses.

### 8. State Sovereignty

**Definition:** The principle that a state has supreme authority over its own affairs, including within its own territory.

## **9. Extraterritorial Violations**

**Definition:** Acts committed by a state outside its own territory that breach international legal obligations, particularly involving human rights abuses.

## **10. Institutional Resistance**

**Definition:** The reluctance or refusal of powerful institutions to acknowledge wrongdoing or implement reform, often to protect their reputation or authority.

## **11. Enhanced Interrogation**

**Definition:** A term used by U.S. officials to describe harsh questioning techniques; widely regarded as a euphemism for torture.

## **12. Command Immunity**

**Definition:** A legal defense where senior officials claim they cannot be held responsible for actions committed by subordinates.

## **13. Convention Against Torture (CAT)**

**Definition:** A UN treaty that prohibits torture and requires states to prevent, investigate, and punish acts of torture within their jurisdiction.

## **Historical Context and Background**

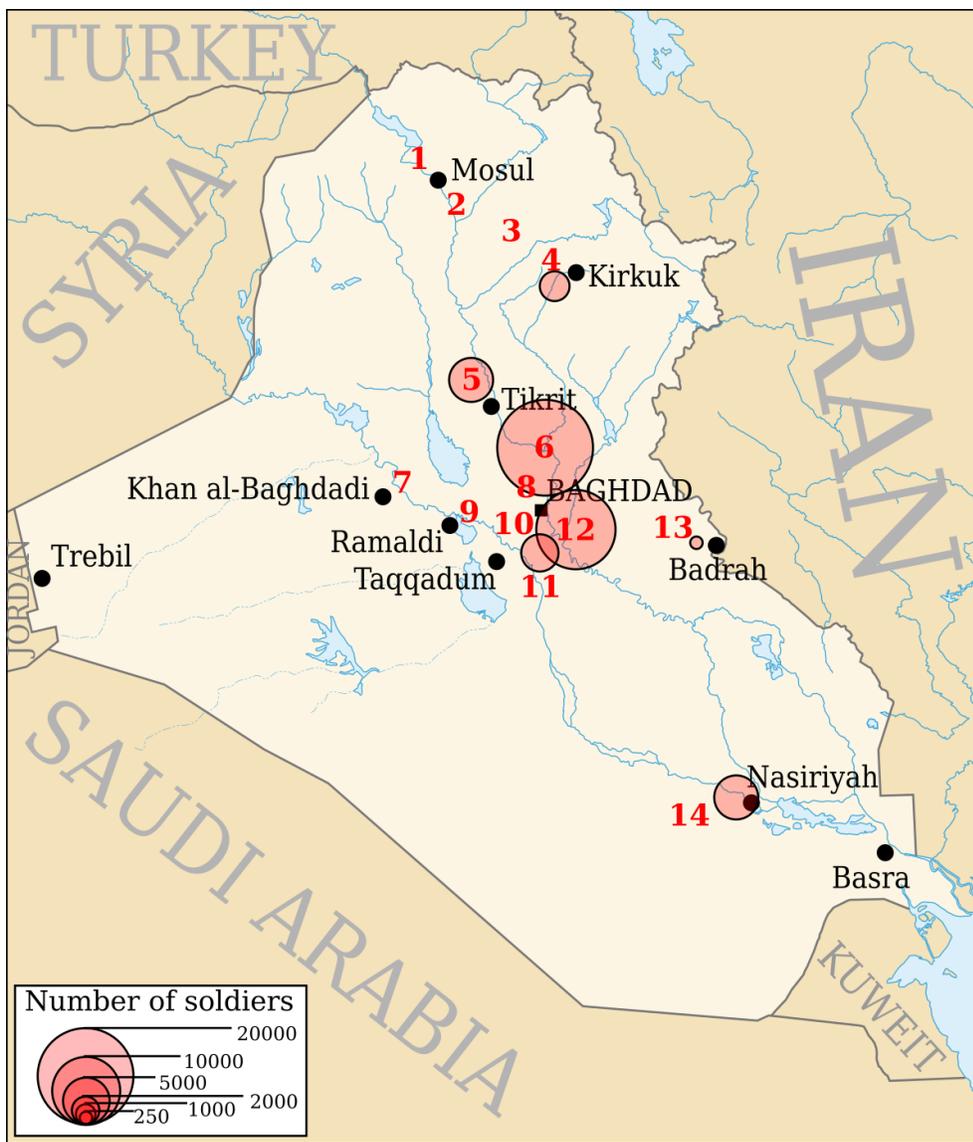
## **A History of Foreign Intervention:**

Iraq's current political and legal situation is due to outside involvement and dictatorships. When the Ottoman Empire fell, Iraq was controlled by the British after World War I. The British ruled Iraq without directly being involved, but still kept control of its politics and military. This period made way for violence by the government, political imprisonment, and the silencing of disagreement, which was often defended by saying it was for national security or to fight rebels. After getting independence, many coups and changes in who was in charge let Saddam Hussein and the Ba'ath Party rise to power in the late 20th century. Saddam's time in power was known for intense government spying, mass killings, torture, and prisons being used to shut down political rivals. Abu Ghraib, a prison just west of Baghdad, became infamous under Saddam's rule as a place where executions and torture happened. It remained a symbol of fear and government power even into the 21st century. When American troops went into Iraq, they not only took over the building but also, in a lot of ways, the way it was used.

## **The U.S. Invasion of Iraq and Its Justification**

After the September 11 attacks in the United States, the focus of foreign policies was shifted. Thus, the Bush administration started going after governments that were seen as threats, especially those accused of hiding terrorists or building dangerous weapons. Iraq was targeted substantially. American leaders, namely George W. Bush and Dick Cheney, had said Saddam Hussein was developing dangerous weapons and had ties with groups like al-Qaeda. Such claims, though proven later to be false, were used as a for invading Iraq in 2003. This

invasion toppled the Iraqi government and led to its collapse. Saddam Hussein was taken out of power and captured. However, the fall of the government led to many adverse effects, such as instability, intergroup fighting, and a large-scale uprising against U.S. troops. In such a situation, there was a spike in detentions, and a great many prisons dotted Iraq, most of them under either direct U.S. military supervision or control.



## The Rise of U.S. Prisons in Iraq

Following the occupation, the U.S. military established a vast detention system across Iraq, designed to hold not only suspected insurgents but also civilians, journalists, and individuals detained during raids and patrols. Among the prisons notoriously reopened “Abu Ghraib” had at its peak over 7,000 detainees. Officially, the prisons were to be places of interrogation and intelligence gathering, to stop insurgents from attacks. In practice, though, many detainees were held without formal charges, without being able to consult lawyers, or without any chance of a trial. Other major prisons included Camp Bucca in southern Iraq and Camp Cropper near Baghdad International Airport. Over the years, tens of thousands of prisoners went through Camp Bucca, becoming the largest detention facility run by the U.S. in that area. It was crucial not only for its huge numbers, but also in terms of how it inadvertently helped in the assembly of radical groups. A good number of those who developed into the leadership of the Islamic State (ISIS), including Abu Bakr al-Baghdadi, met and plotted while imprisoned at Camp Bucca.

Facility	Location	Period Active	Approx. Detainee Numbers
Abu Ghraib (Camp Redemption)	West of Baghdad	2003–Aug 2006	7,490 detainees at peak (March 2004)

<b>Camp Bucca</b>	Umm Qasr, Basra Governorate	Apr 2003–Sep 2009	Officially 13,800 in Sep 2009 Up to ~26,000 in 2007
<b>Camp Cropper</b>	Near Baghdad Intl Airport	2003–~2011	~3,000 detainees (including juveniles)
<b>Camp Nama</b>	Baghdad	2003–2004	Used for interrogation of high-value detainees; detainee count unspecified
<b>Fort Suse (TIF)</b>	Sulaymaniyah, Kurdistan Region	2005–2006	Capacity of 1,700–2,000 detainees

<https://www.theguardian.com/world/2014/dec/11/-sp-isis-the-inside-story?utm>

<https://watson.brown.edu/costsofwar/costs/social/rights?utm>

<https://www.spokesman.com/stories/2005/jun/28/us-plans-to-expand-iraq-prisons/>

### **Abuse, Torture, and International Outcry**

Not just the large scale of this operation, but also the reported abuses and torture brought the American detention system in Iraq to international prominence. Amongst the most disturbing images from Abu Ghraib released in 2004 were detainees being hooded, chained, beaten, and humiliated. Electric shocks, sleep deprivation, sexual

violence, and mock executions were also reported. These disclosures brought international opprobrium and formal investigations by the U.S. military. Some low-level soldiers were convicted and imprisoned, but critics maintained that senior officers were never held to account for having authorized or encouraged such practices. A good deal of the U.S. rationale for its implementation of these techniques was based on calling the tactics “enhanced interrogation” while pointing to national security interests. However, these practices were in direct violation of the UN Convention Against Torture, the Geneva Conventions, and various rules of customary international law. Yet, there was never a proper compensation program set up for the survivors.

With the expansion of the detention system in Iraq, it increasingly became tied in overlapping chains of command and uncertain legal authority. Many detention operations, for example, not only involved U.S. military personnel but also intelligence agencies and private contractors, all with somewhat different rules of engagement and accountability. In addition, many detainees were set outside the formal legal protections of international humanitarian law by labeling them “unlawful combatants” or “security threats” instead of prisoners of war. These ambiguities were not the product of a single decision but the result of a rapidly evolving conflict where legal precedent, military necessity, and political pressure collided. By the time these practices started to get international attention, the detention framework in Iraq had already become a cornerstone of the war.

## Present Context:

The ICJ hearings are an unusual case of judicial dispute between two countries over wartime detention policies. The United States has argued that the Court lacks jurisdiction to pass judgment on its military actions and that the case is political or legally flawed. Conversely, Iraq argues that torture constitutes a grave international crime, and that time should not serve to shield any state from being held accountable for it.

Among the core legal disagreements being weighed is the definition and status of detainees in U.S. run facilities in Iraq. Current legal analysis is reconsidering whether the status designations used for example, enemy combatants or security threats, which were used to circumvent protection under the Geneva Conventions or the Convention Against Torture. The ICJ's ruling on this issue could impact future standards for the definition and treatment of detainees in similar conflicts.

At the diplomatic level, the case has triggered renewed dialogue at the United Nations about the limits of state conduct in conflict zones. Several human rights bodies and legal observers are closely watching the outcome, viewing it as a potential precedent-setting case that could influence future litigation on wartime abuses. Advocacy groups have submitted amicus briefs and expert reports, arguing for a stronger legal framework to hold states accountable for extraterritorial human rights violations.

The ICJ is also considering input from UN human rights bodies. In August 2022, the UN Committee Against Torture raised concerns about the ongoing use of torture and secret detention by Iraqi security forces. While these issues relate to Iraq's own practices, they are part of a

wider international conversation about how torture is addressed under international law. The involvement of global human rights bodies reflects continued interest in how long-standing allegations of abuse are handled through legal channels, regardless of when or where they occurred.

Timeline:

***02/AUG/1990: Iraq invades Kuwait***

The Gulf War erupts with Saddam Hussein invading Kuwait. This event is the first trigger of long-term U.S.–Iraqi hostilities.

***17/JAN/1991: Operation Desert Storm is launched***

A coalition of forces headed by the United States initiates military action to liberate Kuwait. The war ends in February, with Iraq imposed under sanctions and international isolation.

***20/MAR/2003: U.S. and U.K. invasion of Iraq***

The United States and some of its allies began the full-scale invasion of Iraq, alleging that Iraq has WMDs and ties with terrorism. These allegations were never substantiated when WMDs were not found; this led to ongoing controversy over the true reasons for the invasion and whether the war was legal in the first place. The Iraqi capital fell under corruption, and with the collapse of Saddam Hussein's regime, the United States proceeded to institute the Coalition Provisional Authority (CPA) to act as its temporary government.

***01/MAY/2003: George W. Bush proclaims 'Mission Accomplished'***

Major combat has been declared over, but Iraq is entering the next stage of violent insurgency and political chaos as well as sectarian conflict.

***21/OCT/2003: Abu Ghraib prison officially reopened under U.S. control***

Originally a notorious site of torture under Saddam, the prison is repurposed by U.S. forces to detain suspected insurgents and terrorists.

***04/NOV/2003: Start of documented abuses at Abu Ghraib***

It was reported later by internal investigation that detainees had gone through torture, sexual humiliation, beating, sleep deprivation, and other inhumane treatment at the hands of U.S. forces and private contractors.

***28/APR/2004: CBS News Broadcast the Abu Ghraib Photographs***

The leak of awful photographs of abuses started the world outcry while showing detainees who were hooded and naked and U.S. soldiers smiling.

***06/MAY/2004: The Department of Defense Releases the Taguba Report***

The report on the investigation, which was classified, and led by General Antonio Taguba, reported that the abuses inflicted upon the prisoners in Abu Ghraib by U.S. personnel were “sadistic, blatant, and wanton criminal abuses.”

### ***30/JUN/2004: End of CPA; Transfer of Power to Iraqi Interim Government***

This marks the formal handover of sovereignty to Iraq by the U.S., albeit with the military presence and detention programs ongoing.

### ***2005–2008: Expansion of U.S. run prisons***

Thousands of Iraqis have been detained at facilities such as Camp Bucca, Camp Cropper, and Fort Suse without formal charges. Conditions vary but generally include overcrowding, psychological abuse, and lack of oversight.

- Camp Bucca, at peak times, had over 26,000 detainees
- Camp Cropper was for those of high value, including Saddam Hussein before his trial.

### ***01/SEP/2009: U.S. military starts transferring prisons to Iraq***

In accordance with the Status of Forces Agreement (SOFA), The U.S. starts diminishing its detention operations, transferring thousands of detainees to the Iraqi authorities.

***31/AUG/2010: End of U.S. Combat Operations in Iraq***

President Obama has announced the end of the U.S. combat mission, although thousands of troops remain to advise and train.

***18/DEC/2011: End of U.S. Troop Withdrawal from Iraq***

All U.S. military forces officially leave Iraq. At this time, many detention facilities are now under Iraqi control.

***03/JUN/2014: ISIS seizes former U.S. prison Camp Bucca***

After U.S. withdrawal, Camp Bucca is overtaken by ISIS. Many former detainees become top leaders in the group, highlighting long-term consequences of prison radicalization.

***25/JUN/2014: Human Rights Watch releases report on detainee mistreatment under both U.S. and Iraqi forces***

The report states the continuation of similar abuse on the part of Iraqi forces-of-torture and illegal detention-similarly to what the U.S. had done before.

***23/MAY/2023: UN Special Rapporteurs call for accountability to torture in Iraq War***

UN experts demand a renewed investigation into past abuses committed during the occupation, emphasizing the need for justice and reparations.

### *Present (2025): Long-standing ICJ proceedings*

The case of Iraq v. United States over allegations of international law violations, especially under the Convention Against Torture, continues to carry symbolical and substantive weight.

## **Challenges and Stakeholder Dynamics**

### **Oversight Gaps**

Issues arose with the United States detention system in Iraq concerning who was truly in charge. Military police, intelligence officers, and private contractors such as CACI, and Titan would, at times, work alongside each other conducting the same tasks, such as interrogating prisoners. Unlike a regular working environment, no one was in charge. The absence of coordination was to their detriment; hence, that failure to prevent abuse.

### **Legal Loopholes**

The laws left many abuses unchecked. The detainees were mostly classified as "unlawful enemy combatants," which meant they were not entitled to protection under the Geneva Conventions. This legal

loophole allowed the U.S. forces to detain people without trial, abusing them with harsh methods that would otherwise have been banned under international law. U.S. officials claimed sovereign immunity and command immunity to escape prosecution. While lower-ranking soldiers were prosecuted, officials at the highest levels remained mostly immune, along with contractors.

### **The Role of Private Contractors**

The main challenge at hand involved the employment of civilians who performed essential military assignments that were typically executed by officially trained soldiers. The contractors often lacked essential training while demonstrating an evident lack of familiarity with standard interrogation practices. The Taguba report revealed that approximately one-third of all interrogators did not receive formal training. Contractor Steven Stefanowicz from CACI faced allegations about ordering military police to execute abusive interrogation methods. The defense strategy for companies entailed showing that their employees followed orders from military authorities.

### **Role of the Media and Public**

Media outlets worldwide were essential assets to shed more light on the alleged violations of human rights. The quick dissemination of Abu Ghraib images during 2004 which showed detainees wearing hoods and undergoing humiliation generated worldwide public outrage. The news media supported the survivors by increasing their reach to the public.

### **Institutional Resistance and Reform**

The new laws such as the Detainee Treatment Act of 2005 established rules that only protected cases starting from their enactment but failed

to address past violations. Human Rights Watch along with other organizations recorded more than 330 probable abuse cases yet only a limited number of soldiers faced charges. The three officers who faced charges were the only ones to receive significant punishment. Critics claim that Secretary Rumsfeld along with other Pentagon leaders controlled the pace of investigations while attempting to minimize the severity of the incidents.

### **Global and Political Context**

International observers together with human rights organizations questioned both the legality and objectives of the Iraq War conducted by the U.S. The ongoing skepticism towards the war among various nations together with human rights organizations created obstacles for working with international courts including the ICC. The political disagreements within the United States created challenges for maintaining transparency because national security explanations were frequently used to prevent investigations. The involvement of private companies introduced additional obstacles to the situation. Private contractors operated under different regulations than military personnel because they were not part of the armed forces. The lack of clear responsibility became even more challenging to enforce during incidents because of these conditions.

### **Past International Actions**

- The UN Commission on Human Rights passed a Resolution on Iraq in 1999. The Commission issued a strong condemnation of human rights violations by the Iraqi government which included arbitrary detention, torture and enforced disappearances. It

requested the government to implement both UN mechanisms and make changes to impunity laws.

- The International Court of Justice issued a call for an independent human rights inquiry in 2004. The International Court of Justice recommended the UN Special Rapporteurs on torture, arbitrary detention, and extrajudicial execution to perform a joint investigation in Iraq. The appeal specifically raised issues about incommunicado detainees and the need for better oversight as well as the involvement of private contractors in rights violations.
- A 2020 review by the United Nations Committee Against Torture examined Iraq. The Committee asked for updates regarding secret detention facilities and conflict-related sexual violence and Iraq's compliance with the Convention Against Torture. The implementation of Follow-up mechanisms remained partially unimplemented which demonstrated gaps in how nations followed their international treaty obligations.
- The United Nations Security Council approved Resolution 1511 on October 16 2003. The resolution established the multinational force's control over Iraq while urging the return of sovereignty to Iraqi people. The resolution serves as a basis within the international legal system which governed the occupation and all subsequent detention actions.
- In April 2024, three ex-detainees from Abu Ghraib were awarded \$42 million in compensation ordered by a US jury. This was due to the court finding private company CACI involved in the torture faced by the victims.

## Implementation Considerations

### Legal Access and Documentation

Actual action begins with access. The survivors need to be able to tell their stories in a safe and supportive environment, and this will require funding legal aid organizations and interpreters. Some were detained without trial. Others live without evidence. Verifying claims while protecting those affected is a challenge, especially in post-conflict zones.

### Political Will and State Support

Political opposition is the thorn in the flesh. Successful states can defy court rulings or dispute the jurisdiction of the courts. The United States denies the authority of the ICJ in this sense. Without all the parties agreeing, there can be no execution, no matter how symbolic, even though the judgement arrives.

### Economic Cost And Accountability

Investigations, justice processes, and reparations are expensive. Iraq would be powerless to fund the efforts without foreign funding. Foreign donors will be reluctant to invest in the claims of powerful allies. Governments will be concerned about the precedent. Without funding, however, accountability is in theory.

## Capacity Gaps of post-conflict Structures

Iraq's administrative and legal infrastructure was hit hard by the prolonged war. With court backlogs and the majority of the records gone, infrastructure reconstruction will take time, aided by foreign aid. Lawyers must be trained, the courts' records must be reconstructed, and forensic units must be installed.

## Funding Instrument And Foreign Support

The donor community, the UN system, and the NGO community can pick up on these. These can provide support to the survivors. This support must be multi-year, not one-time, monetary support. Survivors can require multi-year support for medical care, trauma counseling, and legal support. Multi-year funding can provide predictable support arrangements. These require well-defined objectives, timelines, and follow-up.

## Guiding questions

1. What are the primary legal arguments Iraq uses to claim a breach of the Convention Against Torture?
2. How does the United States justify its treatment of detainees under international and domestic law?
3. What is the role of state sovereignty in cases involving alleged torture on foreign soil?
4. How might allowing or denying ICJ jurisdiction affect future war-related cases?

5. What protections exist for detainees under international law during armed conflict?
6. If rights are violated during war, what forms of redress should be available to victims?
7. How does this case test the limits of international law in addressing power imbalances between states?
8. What are the implications of this case for the global fight against torture and impunity?

Resources for delegate use:

1. [HRW: Iraq Torture Survivors Await U.S. Redress](#)

Provides updated information on legal efforts by Iraqi individuals seeking redress from the U.S. government for past detention-related abuse. It includes survivor testimonies and explores international accountability mechanisms.

2. [The Guardian: ISIS – The Inside Story](#)

Examines how U.S. administered detention centers in Iraq, such as Camp Bucca, may have contributed to the networking of future extremist groups. Offers insight into the unintended consequences of detention policies during wartime.

3. [National Security Archive: The Abu Ghraib Files](#)

A collection of declassified U.S. government and military documents related to detainee treatment in Abu Ghraib. Offers original source

material on military oversight, investigation outcomes, and internal communications.

#### 4. [CCR Factsheet: Al Shimari v. CACI](#)

Outlines the legal proceedings involving former Iraqi detainees and the U.S. private contractor CACI. Provides a case study on the role of private actors in military detention operations and the legal complexities of cross-border accountability.

#### 5. [Brown University: Costs of War – Human Rights](#)

Offers research-based analysis of the broader impact of the Iraq War on human rights, including patterns of detention, legal classifications, and treatment of prisoners. Useful for evaluating both humanitarian and policy outcomes.

Resources used by the chair:

<https://nsarchive2.gwu.edu/NSAEBB/NSAEBB127/>

<https://www.theguardian.com/world/2014/dec/11/-sp-isis-the-inside-story>

<https://www.hrw.org/news/2023/09/25/iraq-torture-survivors-await-us-redress-accountability>

<https://www.npr.org/2023/03/21/1164916991/looking-back-on-shocking-revelations-u-s-forces-tortured-iraqis-at-abu-ghraib>

<https://www.theguardian.com/world/2014/dec/11/-sp-isis-the-inside-story?utm>

<https://watson.brown.edu/costsofwar/costs/social/rights?utm>

<https://www.spokesman.com/stories/2005/jun/28/us-plans-to-expand-iraq-prisons/>

<https://ccrjustice.org/home/get-involved/tools-resources/fact-sheets-and-faqs/factsheet-torture-abu-ghraib-and-al-shimari-v>

<https://www.hrw.org/news/2023/09/25/iraq-torture-survivors-await-us-redress-accountability>

<https://www.thetimes.com/world/us-world/article/abu-ghraib-torture-prison-iraq-caci-case-8tngq6klg>

<https://apnews.com/today-in-history/april-28#>

<https://www.theguardian.com/world/2009/sep/16/us-prison-iraq-bucca-closure>

<https://www.bbc.com/news/world-middle-east-14546763>

