

## JUDICIAL AND SIMILAR PROCEEDINGS

### 1. **Al Shimari v. CACI (U.S. Court of Appeals for the Fourth Circuit – October 21, 2016)**

[http://ccrjustice.org/sites/default/files/attach/2016/10/98\\_10-21-16\\_Opinion-Vacating-Remanding\\_0.pdf](http://ccrjustice.org/sites/default/files/attach/2016/10/98_10-21-16_Opinion-Vacating-Remanding_0.pdf)

On October 21, 2016, the U.S. Court of Appeals for the Fourth Circuit ruled in *Al Shimari v. CACI* that the former inmates of Abu Ghraib may continue their legal case against the civilian military contractors that they allege tortured them. Previously, the case had been “dismissed under the political question doctrine, but the court held the doctrine does not prevent the judiciary from deciding the case.” Agents of the defendant, CACI Premier technology, allegedly subjected the plaintiffs to various forms of torture during their time in the Abu Ghraib facility. CACI denies any wrongdoing. The Court expressed a desire to avoid “weakening prohibitions under United States and international law against torture and war crimes by questioning the justiciability of a case merely because the case involves the need to define such terms.” It continued by adding, “The political question doctrine does not shield from judicial review intentional acts by a government contractor that were unlawful at the time they were committed.”

### 2. **Khan v. Obama (U.S. District Court of the District of Columbia – October 25, 2016)**

[https://ecf.dcd.uscourts.gov/cgi-bin/show\\_public\\_doc?2008cv1101-303](https://ecf.dcd.uscourts.gov/cgi-bin/show_public_doc?2008cv1101-303)

On October 25, 2016, in *Khan v. Obama*, a federal judge from the U.S. District Court of the District of Columbia dismissed a habeas corpus lawsuit by a former detainee of Guantanamo Bay seeking to clear him of any affiliation with terrorism. Previous courts had upheld the detention of Shawali Khan based on information that was not provided to the defense at the time. The government later changed its mind on the information’s credibility and transferred Khan to a different facility. The judge based his dismissal on the mootness of the case as Khan was no longer in U.S. custody, though he was sympathetic to the “pickle” in which it placed the plaintiff.

## RESOLUTIONS, DECLARATIONS, AND OTHER DOCUMENTS

### 1. **Oxford Guidance on the Law Relating to Humanitarian Relief Operations in Situations of Armed Conflict (October 30, 2016)**

<https://docs.unocha.org/sites/dms/Documents/Oxford%20Guidance%20pdf.pdf>

On October 30, 2016, the UN Office for the Coordination of Humanitarian Affairs in conjunction with the Oxford Institute for Ethics, Law and Armed Conflict and the Oxford Martin Programme on Human Rights for Future Generations launched the Oxford Guidance on the Law Relating to Humanitarian Relief Operations in Situations of Armed Conflict. The project seeks to fill a void in legal analysis pertaining to the obligations of states under international humanitarian law to accept humanitarian relief under certain circumstances. Additionally, the project seeks to provide clear analysis on the overlap of these obligations with other areas of international law. Some issues the project seeks to address are, inter alia, when IHL requires humanitarian relief operations, who must consent to relief, when is withholding of consent arbitrary, and the consequences of arbitrarily withholding consent.

### 2. **Comprehensive Economic and Trade Agreement (October 30, 2016)**

[http://trade.ec.europa.eu/doclib/docs/2014/september/tradoc\\_152806.pdf](http://trade.ec.europa.eu/doclib/docs/2014/september/tradoc_152806.pdf)

On October 30, 2016, the European Union and Canada signed the Comprehensive Economic and Trade Agreement (CETA) after overcoming various late obstacles to the process. The pact required unanimous agreement between the twenty eight members of the EU block. The EU says the agreement will boost trade with Canada by \$13.2 billion a year and set “international standards” for trade. Opposition from Wallonia—a French speaking region of Belgium that claimed CETA “would undermine labor, environment and consumer standards,”—postponed the signing by a number of days.

**3. Rules of Arbitration (International Chamber of Commerce – November 4, 2016)**

<http://www.iccwbo.org/Data/Documents/Business-Services/Dispute-Resolution-Services/Arbitration/Arbitration-Rules/ICC-Rules-of-Arbitration-2017-Revision/>

On November 4, 2016, the International Chamber of Commerce modified its Rules of Arbitration to improve transparency and efficiency in the arbitral process. The new rules will apply an expedited procedure automatically to all disputes under \$2 million with a possibility to opt in for higher disputes. Under the expedited procedure rules, “there will be no Terms of Reference and the tribunal will have discretion to decide the case on documents only, with no hearing, no requests to produce documents and no examination of witnesses.” Also, the expedited rules will implement “a scale providing for significantly reduced fees.” Under the normal procedure, the establishment of terms of reference shall occur in one month as opposed to two. Additionally, the new rules allow the ICC court to provide its reasoning “for its decisions made on challenges, as well as for other decisions, such as *prima facie* jurisdictional decisions and consolidations.” The revised rules will apply from March 1, 2017.

**4. Human Mobility Inter-American Standards (Inter-American Commission on Human Rights – November 4, 2016)**

<http://www.oas.org/en/iachr/reports/pdfs/HumanMobility.pdf>

On November 4, 2016, the Inter-American Commission on Human Rights (IACHR) published its report on the legal standards for persons in the context of human mobility. The purpose of the report “is to lay out the legal standards developed by the Inter-American Commission and the Inter-American Court of Human Rights . . . with regard to the scope and content of the human rights of migrants, asylum seekers, refugees” and other vulnerable groups. To do so, the report looks at the underlying causes of migration in the region, such as “growing socio-economic disparities, particularly in terms of inequality, poverty, and unmet basic needs; the impact of armed conflict and criminal violence in some countries; the deteriorating economic, social, and political situation in various countries; the need for family reunification; the impact of the actions of national and transnational corporations; and climate change and natural disasters.” The IACHR receives its mandate from the Organization of American States Charter and the American Convention on Human Rights.

**5. United Nations Security Council Resolution 2315 (November 8, 2016)**

[http://www.un.org/en/ga/search/view\\_doc.asp?symbol=S/RES/2315\(2016\)](http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/2315(2016))

On November 8, 2016, the United Nations Security Council, acting under its Chapter VII authority, passed a resolution renewing its authorization of the European-led multinational stabilization force in Bosnia and Herzegovina (EUFOR ALTHEA) for another year. During the discussion on the resolution, “Council members took the floor to urge leaders in Bosnia and Herzegovina to pursue reconciliation under compliance with the Dayton Accord, with most expressing concern over tensions that surrounded the referendum on Republika Srpska Day.” A large portion of the region’s Muslim Bosniaks and Catholic Croatians are opposed to the holiday, “which coincides with a Serbian Orthodox Christian festival and also marks the Serb territory’s 1992 secession from Bosnia, which triggered a bloody three-year war.”